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Wickersham, James<sup>227</sup>

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**CONTESTED-ELECTION CASE**

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**OF**

**JAMES WICKERSHAM**

cf

**v.**

**CHARLES A. SULZER, Deceased,**

**AND**

**GEORGE B. GRIGSBY**

**FROM THE TERRITORY  
OF ALASKA**



**WASHINGTON  
GOVERNMENT PRINTING OFFICE**

**1920**

JUL 29 1920

**CONTESTED ELECTION CASE**  
**OF**  
**JAMES WICKERSHAM v. CHARLES A. SULZER, DECEASED,**  
**AND**  
**GEORGE B. GRIGSBY,**  
**FROM THE**  
**TERRITORY OF ALASKA.**

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**NOTICE AND GROUNDS OF CONTEST.**

[House Document No. 74, Sixty-sixth Congress, first session.]

**HOUSE OF REPRESENTATIVES,**  
*Washington, D. C., June 2, 1919.*

**SIR:** I have the honor to present herewith a letter from the Hon. James Wickersham inclosing the original copy of a notice of contest and the petition and statement specifying particularly the grounds of his contest for a seat in the House of Representatives of the Sixty-sixth Congress as Delegate from the Territory of Alaska, which notice of contest could not, it is stated, be served on said Sulzer owing to his death two days prior to the issuance of his certificate of election by the canvassing board of the Territory of Alaska.

Very respectfully,

**WILLIAM TYLER PAGE,**  
*Clerk of the House of Representatives.*

**The SPEAKER OF THE HOUSE OF REPRESENTATIVES,**  
*Washington, D. C.*

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**JUNEAU, ALASKA, May 3, 1919.**

**SIR:** Herewith inclosed is the original copy of a notice of contest and the petition and statement specifying particularly the grounds upon which I rely in making the contest for the office of Delegate from Alaska to the Sixty-sixth Congress. I had a complete copy of this notice of contest and the petition and statement ready for service upon Hon. Charles A. Sulzer, whom I had made contestee, but unhappily Mr. Sulzer died two days before the canvassing board finished its compilation and canvass of the election returns of November 5, 1918, and two days before it declared him elected and issued a certificate, so it was impossible to make service upon him prior to his decease. This copy is sent to you for filing, and I respectfully request that it be presented by you to the House of Representatives on the first day of its opening session at the special session to be called by the President.

I also respectfully request the Speaker of the House of Representatives to refer the matter of the contest to one of the Election Committees as soon as it shall be appointed by the House.

Respectfully,

**JAMES WICKERSHAM.**

**Hon. SOUTH TRIMBLE,**  
*Clerk of the House of Representatives,*  
*Washington, D. C.*

*To the House of Representatives,*

*Congress of the United States, Washington, D. C.*

Please take notice that it is my intention to and I shall contest the action of the canvassing board of the Territory of Alaska in issuing a certificate of election as Delegate to Congress from Alaska, based upon the returns of the election held in said Territory on November 5, 1918, to Hon. Charles A. Sulzer, deceased, some days after his demise, upon the allegations and proofs contained in the following petition and attached thereto, and proofs taken in support thereof.

It is my intention to and I shall contest said election for the reason that this contestant received the greatest number of votes cast for any candidate at said election for Delegate to Congress from Alaska, and because contestant, and not said Sulzer, was duly and legally elected as such Delegate at said election, and because the action of the canvassing board was illegal and void.

And also take notice that annexed hereto is a petition addressed to the House of Representatives, specifying particularly the grounds upon which I rely in making said contest, and that this notice and petition are served by delivery to the House of Representatives because the said Hon. Charles A. Sulzer died in Alaska on April 15, 1919, before the certificate of election was issued to him.

Dated this 3d day of May, 1919.

JAMES WICKERSHAM, *Contestant.*

*To the House of Representatives of the United States, Sixty-sixth Congress:*

Comes now James Wickersham, contestant, and particularly specifies the following grounds upon which he relies in the contest herein against the certificate of election issued to the Hon. Charles A. Sulzer, deceased.

I. That at all the times mentioned in this petition and ever since the passage and approval of the act of Congress entitled "An Act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska," approved May 7, 1906 (34 Stat. L., 169), it was and is the law of the United States that the people of the Territory of Alaska shall be represented by a Delegate in the House of Representatives of the United States, chosen by the people thereof in the manner and at the time prescribed by the laws of the United States, and who shall be known as the Delegate from Alaska.

II. That at the general election held pursuant to the statutes of the United States in the Territory of Alaska on the 5th day of November, 1918, this contestant was a duly nominated candidate for the said office of Delegate from Alaska; that upon the date of said election this contestant was a native-born citizen of the United States and was then and is now, and for more than 18 years last past has been, an inhabitant and a qualified voter in the Territory of Alaska, and on the said 5th day of November, 1918, was not less than 25 years of age, and was then of the age of 61 years, and a resident of the town of Fairbanks, in said Territory of Alaska.

III. That under and pursuant to the terms of the laws of the Territory of Alaska applicable to elections this contestant had been and was duly nominated as the Republican candidate for the office of Delegate from Alaska and Charles A. Sulzer had been and was duly nominated as the Democratic candidate for said office, and Francis Connolly had been and was duly nominated as the Socialist candidate for the said office, and all of said individuals were entitled as such candidates to have their names printed on the official ballot to be used at the said election of November 5, 1918.

IV. That at the said election so held in the Territory of Alaska on the 5th day of November, 1918, this petitioner, James Wickersham, contestant, received the greatest number of legal votes cast for any person or candidate for the office of Delegate from Alaska, and thereby was and now is the duly elected Delegate to Congress from said Territory of Alaska, and was thereupon and now is entitled, under the laws of the United States, to a seat as Delegate from Alaska in the House of Representatives in the Congress of the United States in the Sixty-sixth Congress.

V. That the canvassing board of the Territory of Alaska provided by the laws of Congress for the canvass and compilation of the returns of said election and authorized to issue the certificate of election to the person receiving the greatest number of legal votes thereat was composed of the governor, the secretary of the Territory, and the collector of customs; that each and all of



said officers were at all such times of the opposite political party to this contestant and were his partisan opponents; that seeking to embarrass and delay this contestant in securing a prompt and fair settlement of his rights in the matter of said office; and in ascertaining the result of said election so held in said Territory on November 5, 1918, the said canvassing board purposely delayed the collection of the official election returns and the canvass thereof from month to month until April 16, 1919, whereupon, learning that their candidate, Charles A. Sulzer, was then dead, they finally and hurriedly concluded the canvass and compilation and issued the certificate of election in the name of the said Sulzer, knowing him to be then deceased, and forwarded it at once to the Clerk of the House of Representatives some days after his death; that all the various election officers in Alaska having the conduct of said election of November 5, 1918, were appointed by the partisan official opponents of this contestant without permitting him or his friends to choose even a minority representative on said election boards, and all said officials actively engaged in seeking to prevent this contestant's reelection at said polls; that such officials controlled the receipt of ballots on election day and gave the benefit of all doubtful questions arising in said polls against this contestant; that all the returns of said election were so prepared by the said officials and all doubtful questions and ballots therein were settled in opposition to this contestant and in favor of said Sulzer; that the returns of said election were at all times from November 5, 1918, to the final conclusion of the canvass and compilation thereof on April 16, 1919, in the possession of the said partisan opponents of contestant and were at all such times subject to their inspection and manipulation, whereby all doubts and questions arising in said election, in the acceptance or rejection of ballots, and in the returns and canvass were decided by his opponents against this contestant, and if any changes, alterations, and frauds were perpetrated in said election and in the conduct thereof, in the returns and in the canvass and compilation of the same, they were so committed by the partisans, friends, and supporters of the said Charles A. Sulzer, and not otherwise.

VI. That Charles A. Sulzer, the said candidate for Delegate on the Democratic ticket in opposition to this contestant, died suddenly en route from his home at Sulzer post office, Alaska, to Ketchikan, Alaska, on the evening of April 15, 1919, and thereafter, on April 16, 1919, after being duly notified that he was dead, said canvassing board completed the long-delayed compilation of said election returns and declared that upon the face of the same said Sulzer had been elected by a plurality of 33 votes over this contestant, and on April 17, 1919, issued a certificate of election in the name of said Charles A. Sulzer and forwarded the same to the Clerk of the House of Representatives, Washington, D. C., for filing in the records of said House of Representatives.

VII. That notwithstanding the fact that this contestant was duly and legally elected to the office of Delegate from Alaska to the House of Representatives in Congress at said election on November 5, 1918, the governor of Alaska and other partisan official opponents of this contestant have caused bills to be introduced in the Territorial Legislature of Alaska, since said Sulzer's death, to change the laws of Alaska and of the United States in respect to the election of a Delegate to Congress in cases of vacancy, whereby they intend fraudulently and in violation of the acts of Congress to conduct a sham election, officered by their partisans and those unfriendly to this contestant, and to elect one of their official partisans in violation of said laws to said alleged vacancy; that the said governor, after a caucus of his partisans in Juneau, has announced in their partisan newspaper that it is his intention to issue a call for said special election on April 29 immediately after the adjournment of the said legislature and to hold the said election on June 3, 1919, all of which is in violation of the laws passed by Congress for the conduct of elections for the election of a Delegate from Alaska to the Congress of the United States, and if carried out as threatened will be unlawful and fraudulent.

VIII. That the Territorial canvassing board, in canvassing the returns of said election of November 5, 1918, and in deciding and determining how many votes were cast for each candidate, based their decision exclusively upon the face of the certificates of results of the election at each precinct throughout the Territory, and upon nothing else, and took into consideration no illegal action, error, or mistake in the conduct of the election by the electors and officials, or the determination of the results thereof by the judges of election, whereby the results at certain of the voting precincts in said Territory have been rendered and now are wholly or in part erroneous, invalid, and void.

IX. That by an act of the Legislature of Alaska, approved by the governor thereof on May 3, 1917, it was enacted—

“SECTION 1. It shall be the duty of the attorney general of the Territory of Alaska to prescribe the form of official ballots, register of votes, registration books, certificates and oaths of judges, election certificates, and all other forms necessary for the conduct of elections, canvassing of votes, and declaration of the result which are now or may be hereafter required by the laws of Congress or of the Territorial legislature.

“SEC. 2. The attorney general shall furnish such forms to all officers whose duties it is or shall be to cause the same to be printed and distributed.”

That so far as the aforesaid act relates to prescribing the forms of ballots at said elections, it was and is in violation of the acts of Congress relating to the same subject in Alaska and void; that in so far as it related to preparing forms of election blanks in compliance with the law it was complied with in part by the attorney general of Alaska for the election of November 5, 1918; that in such forms and in instructions to election officers the said attorney general instructed said election officers that the act of Congress requiring that no person could vote at said election except such person had been for one year immediately preceding the date of said election an actual and bona fide resident of said Territory, and a resident in the voting precinct where he voted for at least 30 days immediately preceding the date of said election, was the organic law of Alaska and must be followed and complied with at said election; that such instruction was given to all election officers in said Territory at said election; but that fraudulently intending to permit illegal votes to be cast by Democratic partisans in violation of such law and instructions the election officers in many precincts, and especially in Ketchikan, Charcoal Point, the Juneau precincts, Sulzer, Craig, Baranof, Douglas, and Valdez precincts, and a large number of other precincts in said Territory, allowed persons to cast their ballots therein well knowing that such persons were not qualified to vote in such precincts under the acts of Congress and the instructions of the attorney general.

X. That the facts upon which this contestant bases his allegation that many of said certificates of results of election in the various election precincts are void or erroneous, or incorrectly state the number of legal votes cast for each candidate, are as hereinafter more particularly set forth, to wit:

1. That on November 5, 1918, the said Charles A. Sulzer was a resident of the Sulzer voting precinct, at Sulzer post office, on Prince of Wales Island, in the Territory of Alaska, and had been a resident there continuously for several years then last passed; that he had actually resided therein at Sulzer post office, in his own dwelling house, where his wife and family also then at all times resided; that he was there interested in mining and mercantile business; that neither on November 5, 1918, nor at any time within several years previous thereto, had said Sulzer or his family resided at any other place or in any other voting precinct in said Territory of Alaska; that, nevertheless, on said 5th day of November, 1918, the said Sulzer, well knowing that the statutes of the United States for the conduct of elections in the Territory of Alaska for the election of a Delegate from that Territory to the Congress required that every elector claiming the right to vote at said election for Delegate or members of the Territorial legislature must have been an actual and bona fide resident in said Territory continuously during the entire year immediately preceding the election, and a resident in the voting precinct where he voted continuously for at least 30 days next preceding the date of said election, presented himself to the judges of election in the Ketchikan voting precinct and offered to vote there and demanded the right to have and cast a ballot for such candidates; that Ketchikan voting precinct is about 60 miles away from the Sulzer voting precinct, at Sulzer post office, on the said Prince of Wales Island, and the said Charles A. Sulzer had not resided in the said Ketchikan voting precinct for 30 days next preceding said November 5, 1918, or at all, but his actual residence then was in said Sulzer precinct; that the right of said Sulzer to cast his ballot and to vote in said Ketchikan voting precinct was challenged and denied at the time of his said offer, and the judges of election informed him that the law and the rules and regulations for the government of all election officers at said election provided that he could not legally vote in any other voting precinct than the Sulzer precinct; that the said Sulzer persisted in his demand for the right to cast his ballot in said Ketchikan precinct, whereupon one of the judges of election presented him with a blank form of oath required to be taken by challenged electors at said election, and informed said Sulzer

that before he would be permitted to vote he would be required to take the said oath declaring that he had actually been a resident in said Ketchikan voting precinct continuously for at least 30 days next preceding the date of said election; thereupon the said Sulzer read the said blank oath and considered the matter, and declined and refused to take the said oath, whereupon the said election officers declined and refused to permit him to cast said vote and ballot in said Ketchikan voting precinct, whereupon said Sulzer left said polling place.

Soon thereafter, at said Ketchikan voting precinct, on said 5th day of November, 1918, said Sulzer entered an automobile operated by one William Mahoney, then the duly appointed and acting United States commissioner and ex officio justice of the peace, probate judge, coroner, and recorder in the Ketchikan recording district, and the official who had then appointed all the election officers in the various voting precincts in said Ketchikan election district, except Ketchikan town, but including Charcoal Point voting precinct, and was driven by the said Mahoney out of the incorporated town of Ketchikan into the Charcoal Point voting precinct adjoining; thereupon, on said November 5, 1918, in the presence of and supported by said Mahoney, the said Sulzer, well knowing that he was then committing a crime in violation of the United States election laws, presented himself to the judges of election in the Charcoal Point voting precinct and offered to vote there and demanded the right to cast his ballot there for Delegate to Congress and members of the legislature at said election; that the officials in charge of said polling place at Charcoal Point were partisans of said Sulzer and had been appointed as officials by the said Mahoney and in violation of law delivered a ballot to the said Sulzer, who marked and cast the same and then and there voted for Charles A. Sulzer for Delegate to Congress and for the Democratic candidates for the legislature; that said fraudulent ballot so cast by said Sulzer was received by said election officers in said Charcoal Point voting precinct and deposited in the ballot box, was counted and carried into the returns from said Charcoal Point voting precinct, and is now credited to said Sulzer in said returns; the said act of said Sulzer in casting said ballot in said Charcoal Point voting precinct was illegal and in violation of the act of Congress providing for the election of a Delegate from Alaska and members of the Territorial legislature; it constituted and was a crime, and the said Sulzer well knew that fact when he so voted, but well knowing that all of the officials charged with the duty of preventing and punishing offenses against the election laws in said division were his political supporters and friends he committed said crime willfully and without fear of punishment.

2. That on November 5, 1918, one W. H. Morrissey was the duly appointed clerk of said Charles A. Sulzer, and was under salary paid from the fund appropriated by Congress for the payment of clerks to Representatives and Delegates to Congress; said Morrissey was on that day, and for some time previously had been, in Alaska as the political representative of said Sulzer, and engaged in making political speeches and performing other political work for said Sulzer; that said Morrissey was in the town of Juneau, Alaska, in the first division, on said November 5, 1918, and presented himself at the polling place in said Juneau known as precinct No. 2, and then and there demanded from the judges of election an official ballot, and having received the same duly marked and voted the same, thereby casting a ballot and a vote for said Charles A. Sulzer, which vote was received, counted, carried into the returns and is now credited to said Sulzer in the total vote in said precinct; that said Morrissey had not, on November 5, 1918, been a resident in said voting precinct nor in said division No. 1 for 30 days continuously before said election; or at all; that his residence for some years previous to that date had been in Fairbanks, Alaska, in the fourth division, and his said act in so voting in Juneau on that day was in violation of the act of Congress providing for holding elections in Alaska for the election of a Delegate and members of the legislature, and constituted a crime, to wit: A felony, under the penal clauses of said act; that said Morrissey well knew that his act in so voting in said precinct was a crime, but he also well knew that all the officials in said division whose duty it was to prevent and punish offenses against the election laws were the political friends and supporters of the said Charles A. Sulzer, and he committed said crime willfully and without fear of punishment.

3. That at the time of said election for Delegate in Alaska, so held on November 5, 1918, and for more than two years prior thereto, Hon. Robert W. Jennings was the duly appointed, confirmed, and acting judge of the district court of Alaska, in division No. 1 thereof; Hon. William A. Holzheimer was the

duly appointed, confirmed, and acting judge of the district court of Alaska in division No. 2 thereof; Hon. Fred M. Brown was the duly appointed, confirmed, and acting judge of the district court of Alaska in division No. 3 thereof; and that Hon. Charles E. Bunnell was the duly appointed, confirmed, and acting judge of the district court of Alaska in division No. 4 thereof; and there were none other; that it is the duty of the said district judges to appoint, and at pleasure removed, commissioners in and for the district, and each of said judges did, prior to said election, so appoint a commissioner in each recording district in said Territory within the division in which the said judge held his said court, and said judge had the power, at his pleasure, to remove said commissioners at any time; that under the provisions of the act of Congress entitled, "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska," approved May 7, 1906, and by section 5 thereof, it was made the duty of said commissioners, at least 60 days before the date of said election on November 5, 1918, by order and notice entered in his records, to divide his recording and election district into such number of voting precincts as may in his judgment be necessary or convenient, to specify a polling place therein, and to give notice of the holding of said election, and—

. "That at least 30 days prior to the date of the holding of such election the commissioner shall select, notify, and appoint from among the qualified electors in each voting precinct three judges of election for said precinct, no more than two of whom shall be of the same political party."

The commissioner is required to notify such election judges of their appointments. The said act, section 6, provides that the said judges of election of each voting precinct so appointed shall constitute the election board for said precinct, and a majority of said judges shall govern; that two of said judges shall act as clerks of election; and the law provides that one set of the precinct returns of said election shall be forwarded by said judges of election to the clerk of the district court for the division in which said precinct is situate and the other to the governor of Alaska. That in pursuance of the law aforesaid, each of said judges of the district court had the power to and did appoint the said clerk of the court in the division in which he so held court.

That in pursuance of said statutes the said district judges aforesaid had, prior to said election, so appointed each commissioner aforesaid in his respective division, and each said commissioner did appoint the judges of election as aforesaid, and the returns of said election in each and all said precincts in Alaska were so made by said judges of election to said clerk of the court and governor; that the canvassing board in said Territory was composed of the governor, surveyor general, and collector of customs.

That the said governor of Alaska, the surveyor general, and collector of customs so comprising said canvassing board, the said four judges of the district court of Alaska, and said four clerks of court, and all United States marshals, district attorneys, and all other Federal officials in said Territory, were, at all times mentioned herein, Democrats and partisans and supporters of said Sulzer; that in each precinct the said Democratic commissioner appointed two Democrats and either a Republican opponent of contestant or a Socialist as the three election judges and clerks of said election in said precincts, and thereby the whole election machinery in the conduct of said election of November 5, 1918, in said Territory was in every detail and at every point controlled and managed by the friends, partisans, and supporters of said Sulzer, and not otherwise; and that neither this contestant nor his friends and supporters had any part or control in the management of said election; that if there were frauds or illegal acts committed in said election, they were done and performed by the said appointed friends, partisans, and supporters of said Sulzer, for his benefit and not otherwise.

4. That on said November 5, 1918, one William Mahoney was the duly appointed and acting commissioner in and for the Ketchikan recording district, having long prior thereto been appointed to such position by Robert W. Jennings, judge of the District Court for the First Division of Alaska, of which division said Ketchikan recording district was and is a part; that prior to the holding of said election for the election of a Delegate to Congress and members of the legislature, on November 5, 1918, the said Mahoney had divided the said Ketchikan election district into 10 voting precincts, to wit, the incorporated town of Ketchikan and the following unincorporated voting precincts of Charcoal Point, Sulzer, Dolomi, Hyder, Kasaan, Craig, Beaver Falls, Token, Loring, and Hadley, and had appointed all the election officers therein, except in the town of Ketchikan (where the election officers are appointed by the



common council), and had forwarded to his said appointees the blank election returns and official ballots for holding said election; that said Mahoney was, at all the times mentioned herein, a bitter partisan Democrat and an active supporter of said Charles A. Sulzer, contestee; the said Mahoney well knew that Robert W. Jennings, the judge of said district court, who appointed him, was also a partisan political supporter of Sulzer's and would support him in his activities.

That the said Mahoney operated an automobile on said November 5, 1918, in Ketchikan and Charcoal Point voting precincts, and worked actively during said day in procuring electors to go to the polls in said precincts whom he thought would vote for Sulzer; he assisted said Sulzer in illegally voting on said day, and when Sulzer's vote was rejected in Ketchikan voting precinct, escorted him to Charcoal Point in his automobile and aided in procuring him to cast his ballot there in violation of law, thereby himself committing a crime, to wit, a felony under the provisions of the fifteenth section of the act of Congress providing for the election of a Delegate from the Territory of Alaska, approved May 7, 1906 (34 Stat. L., 169-175, sec. 406, p. 267, Compiled Laws of the Territory of Alaska, 1913); that on said election day the said Mahoney induced and compelled the prostitutes residing in Ketchikan voting precinct to go to the polls there and vote for Sulzer, himself hauling a big, fat Negro prostitute to the polls in his carriage in which he hauled other illegal voters to the Charcoal Point voting precinct; that said Mahoney, in all the matters and things in this paragraph alleged, acted with and for the said Charles A. Sulzer, and that on said election day, November 5, 1918, the said Sulzer and Mahoney, acting together, induced and procured certain other persons, to wit, A. van Mavern, of Juneau, Alaska; Charles Leask, an Indian from the Metlakatla Indian Reservation; J. C. Cochran, a lighthouse tender from the Lincoln Rock Lighthouse; George A. Nix, an Indian from the Sulzer voting precinct; and C. Dudler, from the Dolomi voting precinct, Alaska, who were not then and had never been residents in the Charcoal Point voting precinct, and no one of whom was then or ever had been a legal elector in the said Charcoal Point voting precinct, to cast his ballot in said Charcoal Point voting precinct for the said Charles A. Sulzer for Delegate to Congress; and each of said persons and many others who were not then residents and legal voters in said Charcoal Point precinct were induced and persuaded by said Mahoney and Sulzer, in violation of law, to so cast their votes for said Sulzer in said precinct; and the election officers in said Charcoal Point precinct were at said time the appointees of said Mahoney and supporters of the said Sulzer, and willfully and in violation of the law permitted the said illegal votes to be cast, and received said illegal and fraudulent ballots and deposited them in the ballot box, and counted and credited them in the returns in favor of said Sulzer, and they now form part of the total vote claimed by said Sulzer in the totals compiled by the canvassing board for said Territory; that this contestant is also informed and believes, and therefore alleges that said Charles Leask was born in British Columbia, Canada, and was never naturalized, and is for that reason also not a citizen of the United States nor a legal voter in Alaska; that referring especially to the said George A. Nix, who so cast his said illegal ballot at Charcoal Point voting precinct, and who was not a resident therein, the said Charles A. Sulzer, acting by and with the said Mahoney, procured the said Nix to so unlawfully and illegally cast his said vote there for said Sulzer by means of threats and intimidation and by overawing the said Nix and the election officers by reason of the official position and demands of the said Mahoney and the said Sulzer, the said Mahoney and the said election officers well knowing that the said Nix was an Indian who, through fear and ignorance, would obey the commands of those occupying official positions; that all the votes so cast by the persons named in this paragraph in said Charcoal Point precinct and others of a similar kind were duly received, counted, credited to Sulzer, and were included in the returns and total vote so found to be cast for said Sulzer by the canvassing board, upon which the said Sulzer claims the right to the office of Delegate to Congress from Alaska in this contest.

5. That at said election so held in the Ketchikan voting precinct on said November 5, 1918, the following-named persons presented themselves at the polls and demanded and received official ballots, and marked and voted the same and cast such a ballot and vote for Charles A. Sulzer for Delegate from Alaska, to wit: Dudley Allen and Mrs. Dudley Allen, his wife; William Semar and Margaret Semar, his wife; Gus Gillis and Mrs. Gus Gillis, his wife;

William Coulter, W. Chapman, Mrs. Steve Ragan, and others whose names are to this contestant unknown; that said persons so voting cast each his or her vote for Charles A. Sulzer as aforesaid; that said votes were received, counted, and credited to said Sulzer and are included in the total vote credited to said Sulzer by the canvassing board; that neither of said persons was or had been a resident in the Ketchikan voting precinct for 30 days next preceding the date of said election, and neither was a legal voter therein, and each and all of the votes so cast by them for the said Sulzer was fraudulent and void, and should be subtracted from the total vote so credited to him by the canvassing board.

6. That Sulzer voting precinct and Craig voting precinct are each in the Ketchikan election district; that the election officers there were appointed by the said William Mahoney; that in the Sulzer voting precinct, which is on Prince of Wales Island, about 60 miles distant from the town of Ketchikan, there is located the Halda Indian Reservation, and in the Craig voting precinct there is located the Klawock Indian Reservation, both of which reservations were created more than two years prior to November 5, 1918, by Executive orders of the President of the United States, and both of which were at all times mentioned herein occupied and inhabited by Indians none of whom had voluntarily or otherwise taken up his residence separate and apart from any tribe of Indians and adopted the habits of civilized life; that all Indians on such reservations lived there as wards of the Government, in tribal relations, and none of them were, on November 5, 1918, qualified or legal voters under the laws of the United States, or entitled to cast a ballot or vote at said election; that notwithstanding their want of citizenship more than 20 of said Indians from the Halda Indian Reservation on said day presented themselves at the polls in the Sulzer voting precinct, demanded and received ballots, and cast their votes for Charles A. Sulzer for Delegate from Alaska; that said ballots were received and the said votes were counted and are credited in favor of the said Sulzer in the total vote compiled and credited to him by the official action of the canvassing board; that notwithstanding their want of citizenship more than 20 of said Indians from Klawock Indian Reservation on said day, presented themselves at the polls in said Craig voting precinct, demanded and received ballots, and cast their votes for the said Charles A. Sulzer for Delegate from Alaska; that said ballots were received and said votes counted and credited in favor of the said Sulzer in the total vote compiled and credited to him by the final action of the canvassing board.

7. That at the election held in the Baranof voting precinct in the Sitka recording district, first judicial division of Alaska, on said 5th day of November, 1918, the following-named persons presented themselves at the polls and demanded and received official ballots, and marked and voted the same, and cast such a ballot and vote for Charles A. Sulzer for Delegate from Alaska, to wit: H. J. Raymond, Mrs. H. J. Raymond, his wife; Selma Jacobson and Mrs. Selma Jacobson, his wife; and J. R. McNeill, and other persons whose names are to this contestant unknown; that said persons so voting cast each his or her vote for Charles A. Sulzer as aforesaid; that said votes were received, counted, and credited to said Sulzer, and are included in the total vote credited to said Sulzer by the canvassing board; that neither of said persons was or had been a resident in the Baranof voting precinct for 30 days next preceding the date of said election, and neither was a legal voter therein, and each and all of the votes so cast by them for the said Sulzer was fraudulent and void and should be subtracted from the total vote so credited to him by the canvassing board.

8. That at the election held in the Kake voting precinct in the first judicial division of Alaska on the said 5th day of November, 1918, Joseph A. Snow and certain other persons whose names are to this contestant unknown presented themselves at the polls and demanded and received official ballots, and marked and voted the same, and cast such a ballot and vote for Charles A. Sulzer for Delegate from Alaska; that said votes were received, counted, and credited to said Sulzer, and are included in the total vote credited to said Sulzer by the canvassing board; that neither of said persons was or had been a resident in said Kake voting precinct for 30 days next preceding the date of said election, and neither was a legal voter therein, and each and all of the votes so cast by them for the said Sulzer was fraudulent and void, and should be subtracted from the total vote so credited to him by the canvassing board.

9. That, at the Douglas No. 2 voting precinct, on Douglas Island, Alaska, the certificate of the result of the election states, in substance and effect, that for the office of Delegate from Alaska there were cast the following votes, to wit: For this petitioner, James Wickersham, contestant, 21 votes; for Charles A.

Sulzer, contestee, 19 votes; whereas, in truth and in fact, there was cast for the said Charles A. Sulzer, contestee, at said precinct at the said election on the said 5th day of November, 1918, not to exceed 12 votes, and that the other 7 votes claimed to have been cast at said place and time for the said contestee, were cast by Indians who were not citizens of the United States and who were not lawfully entitled to vote at the said election. That one, James A. Smiser, then and there United States attorney for the first judicial division of Alaska, and one John J. Reagan, then and there assistant United States attorney for the said first judicial division of the Territory of Alaska, and one George Johnson, then and there deputy United States marshal, residing at Douglas, Alaska, then and there, for the purpose of subverting and violating the laws pertaining to elections in the Territory of Alaska, induced certain Indians, to wit: Chief Jimmy Fox, Daniel Josephs, Gilbert Jackson, William Brady, Edward Marshall, John Willis, and John Harris, to go to the polling place in Douglas No. 2 precinct aforementioned, at the said election, and then and there induced and procured the said Indians to cast their ballots for the said contestee, well knowing that the said Indians were not citizens of the United States and were not entitled to vote at said election, and then and there, by virtue of their official positions, overawed the judges of election at the said election precinct and persuaded the judges of election, contrary to the personal judgment of the said judges of election, to permit the said Indians to so vote at said election.

10. That at the Juneau No. 1 voting precinct, at Juneau, Alaska, the certificate of the result of the election states, in substance and effect, that for the office of Delegate from Alaska there were cast the following votes, to wit: For this petitioner, James Wickersham, contestant, 195 votes; for Charles A. Sulzer, contestee at said precinct, at said election on the said 5th day of November, 1918, not to exceed 245 votes, and that the other 21 votes claimed to have been cast at the said place and time for the said contestee, were cast by Indians who were not citizens of the United States and were not lawfully entitled to vote at the said election. That one James A. Smiser, then and there United States attorney for the first judicial division of the territory of Alaska, and one John J. Reagan, then and there assistant United States attorney for the first judicial division of Alaska, then and there for the purpose of subverting and violating the laws pertaining to elections in the Territory of Alaska, induced certain Indians, to wit: George Martin, Albert Samuels, Herbert Martin, Billy Martin, Mrs. Tille Martin, Pete Smith, Frank Peters, Willie Peters, Francis Joseph, Charlie Gray, George Howard, Jack Gamble, Charlie Bobb, Jimmie Hanson, George Gamble, Charlie Peters, James Miller, Jacob Harris, John Harris, Harry Anderson, and Charlie Gamble, to go to the polling place at Juneau No. 1 election precinct aforementioned at the said election, and then and there induced the said Indians to cast their ballots for the said contestee, well knowing that the said Indians were not citizens of the United States and were not entitled to vote at said election, and then and there by virtue of their official positions overawed the judges of election at the said election precinct and persuaded the judges of election, contrary to the personal judgment of the said judges of election, to permit the said Indians to so vote at said election.

11. That the certificates of results of the election held on the said 5th day of November, 1918, as appears by the said certificates of election executed by the judges of election at the election precincts hereinafter named, were as follows, to wit: Token, for contestee, 11 votes; for contestant, 2 votes; Kake, for contestee, 5 votes; for contestant, 1 vote; Loring, for contestee, 13 votes; for contestant, 12 votes; Tenakee, for contestee, 19 votes; for contestant, 10 votes; Windham, for contestee, 4 votes; for contestant, no votes; Chisana, for contestee, 6 votes; for contestant, 2 votes; Ninilchik, for contestee, 5 votes; for contestant, 4 votes. That said certificates of results were accepted and counted as true by said Territorial canvassing board, in canvassing the returns of said election and in deciding the number of votes cast for each candidate, while in truth and in fact the election at all of said precincts before mentioned was void, and all of said certificates of results and all of the votes cast at said precincts should be eliminated in determining the results of said election held on November 5, 1918, for the following reasons, to wit: That the laws of the Territory of Alaska prescribing a form of official ballot to be used at each general election in the Territory of Alaska provide, in substance and effect, that "at the top thereof, above a perforated line, shall be duplicate stubs bearing consecutive numbers, one of said stubs to be retained by the election judges in presenting said ballot to the voter, the other stub to be torn from the ballot by



the election judges and compared and retained upon the return of the voter from the voting booth," the evident purpose of the provision above quoted being to preserve fully and completely the secrecy of the ballot. That the judges of election at the precincts above mentioned failed to remove either one or both of said stubs or coupons from the ballots cast at said election precincts before depositing the same in the ballot boxes in said precincts, nor have such numbered stubs or coupons been subsequently detached. That said ballots, which were numbered consecutively, were, at each of said precincts, delivered to the electors in the order in which they presented themselves, beginning in each instance with the ballot bearing the lowest number, and in the same order in which said electors signed the registration book and in which their names were entered in the duplicate election register and tally book. That as a result thereof the judges of election at each of said voting precincts were able to determine how each elector voted, and any person at any time inspecting said ballots and the duplicate election register may determine for what candidate and candidates each elector voted, and that by reason of the above-mentioned wrongful acts of the said judges of election, the secrecy of the ballot was destroyed. That by reason of the above-mentioned facts the said election at the voting precincts of Tokeen, Kake, Loring, Tenakee, Windham, Chisana, and Ninilchik should be held null and void, and the aforementioned results as set forth in the respective certificates of election returned by the judges of election for said precincts should be deducted from the general results of said election. That the contestee, Charles A. Sulzer, through his attorneys, J. A. Hellenthal and John R. Winn, formally and officially protested against the counting of any ballot that had any distinguishing mark upon it, whereby it might be ascertained how each or any one of the electors voted, and this contestant now joins in that protest.

12. That at several of the election precincts throughout the Territory of Alaska, at the said election held on November 5, 1918, the judges of election disregarded and failed to count or include in the official results various ballots lawfully and duly cast for this contestant, and which ballots should be added to the number of votes otherwise certified from each of said precincts as received by this contestant. That the precincts in which such ballots in favor of this contestant were so rejected by the judges of election and the number of such ballots so unlawfully rejected by the judges of election in each of said precincts are as follows, to wit: One ballot at the Chichagof voting precinct, one ballot at Juneau No. 3 voting precinct, one ballot at Candle voting precinct, one ballot at Anchorage No. 2 voting precinct, one ballot at Ellamar voting precinct, one ballot at Eyak voting precinct, one ballot at Kenai voting precinct, one ballot at McGrath voting precinct, one ballot at Palmer voting precinct, one ballot at Bettles voting precinct, two ballots at Brooks voting precinct, one ballot at Discovery voting precinct, one ballot at Fort Gibbon voting precinct, five ballots at Fairbanks voting precinct, six ballots at Nenana voting precinct.

13. That contestant is informed and believes and therefore alleges that at the said election for Delegate to Congress on November 5, 1918, in the precincts of Granby, Copper Center, and Sourdough, in the third division, and in Richardson, Fairbanks, Chena, Nenana, Hot Springs, Tanana, Fort Gibbon, Loudon, Ruby, Nulato, Eagle, and Circle, in the fourth division, and in Haines, in the first division, and in other voting precincts in Alaska, a large number of persons whose names are unknown to contestant cast their votes for Charles A. Sulzer for Delegate to Congress, which votes were received and counted, and are included in the total number of votes canvassed and compiled by the canvassing board, and are included within and credited to Sulzer by the canvassing board; that each of said persons was an enlisted soldier in the Army of the United States and not a resident of Alaska prior to his arrival in Alaska as a member of such Regular Army, and who came into Alaska and has, since arrival in the Territory, and was on November 5, 1918, under the orders of his superior officers, and was so under command when he cast his said ballot on November 5, 1918; that neither of said persons was at the time he so cast his vote on November 5, 1918, an actual and bona fide resident of the Territory of Alaska, and had not been such actual and bona fide resident continuously during the entire year immediately preceding the election, nor a resident in the precinct in which he cast such vote for 30 days next preceding the election, nor was any one of them qualified to vote for Delegate from Alaska at such election.

14. That heretofore, to wit, at the general election held in the Territory of Alaska on the 7th day of November, 1916, a voting precinct was legally established at Jack Wade Creek in the fourth judicial division of Alaska; that the

said voting precinct of Jack Wade Creek has at no time been abolished or disestablished as a voting precinct; that on and for more than 30 days prior to the 5th day of November, 1918, there were not less than 31 qualified voters residing in the said Jack Wade Creek voting precinct and that all of said 31 electors would have voted for this contestant, James Wickersham, at the said election held November 5, 1918, had the necessary provisions been made for the holding of such election in the said Jack Wade Creek precinct and that no votes would have been cast in said precinct for the contestee, Charles A. Sulzer. That long prior to the said 5th day of November, 1918, the said facts were well known to this contestee and his political friends and supporters, and especially were they well known to John J. Donovan, the United States commissioner for the 40-mile commissioner's district in the fourth judicial division of Alaska, within whose jurisdiction the said Jack Wade Creek precinct was situated; and for the purpose of depriving the said electors at the said Jack Wade Creek precinct of an opportunity to vote for James Wickersham, contestant, at the said election held in the Territory of Alaska on the 5th day of November, 1918, and for the purpose of depriving this contestant of the benefit of the said votes the said John J. Donovan failed and neglected to appoint judges or otherwise to provide for the holding of an election at Jack Wade Creek precinct on the said 5th day of November, 1918, but that although the said Jack Wade Creek precinct was never abolished or disestablished as a voting precinct the said John J. Donovan on the 1st day of October, 1918, and not prior thereto, issued an order purporting to establish the boundary lines for a voting precinct within the jurisdiction of the said John J. Donovan, known as "Chicken," and purporting to include Jack Wade Creek precinct within the boundaries of the said Chicken precinct, well knowing that it would be impossible for the electors aforementioned, residents of Jack Wade Creek, to cast their ballots at the said election at Chicken because of the distance necessarily to be traversed by them and the difficulties connected with travel at the season in question and well knowing that the laws of Congress and the Territory of Alaska pertaining to the creation and abolition of voting precincts provide that a new voting precinct (or the new boundaries of a precinct) must be established by the proper order at least 60 days prior to the election. That by reason of the said fraudulent and wrongful acts of the said John J. Donovan, United States commissioner for the Forty-mile commissioner district in the fourth judicial division of Alaska, at least 31 votes were lost by this contestant and 31 electors were deprived of the opportunity to vote who would have cast their ballots for this contestant had they not been wrongfully and fraudulently deprived of the opportunity to do so in the manner and form above set forth.

15. That during all the times mentioned in this petition one Charles E. Bunnell was judge of the district court for the Territory of Alaska, fourth division, with his headquarters at Fairbanks, Alaska; that said Bunnell was a candidate for Delegate to Congress against this contestant in 1914 and was defeated and this contestant was elected; that the said Bunnell is a Democrat and a violent political partisan of contestee and makes all of his appointments for commissioner in said fourth division for political reasons; that each and every one of his commissioners in said fourth division engages in partisan politics at each biennial election for Delegate to Congress from Alaska, and the entire election machinery in the said division is controlled by the said Bunnell, through his commissioners, for political ends; that at the election in 1916 this contestant received a decided majority of the votes cast in the precincts of Jack Wade and Steel Creeks, which are in the Forty-mile recording district in the fourth division, and for the purpose of preventing the voters in the said precinct from again casting their vote for this contestant one John J. Donovan, commissioner in the Forty-mile precinct, appointed by the said Charles E. Bunnell, redistricted the said recording district of Forty-mile so as to abolish the Jack Wade and Steel Creek precincts, though each of them had at the time of the November 5, 1918, election more than 30 voters therein, and added the area of each of the said abolished precincts to the other voting precincts in said recording district and fixed the polling places in the most distant parts of said other voting precincts, more than 30 miles away from the ordinary and accustomed polling places in the said Jack Wade and Steel Creek precincts in order to prevent, and thereby did effectually prevent, the electors in the said Jack Wade and Steel Creek precincts from going to the distant polling places over the mountains, at great expense and labor, to cast their said votes, whereby this contestant lost the votes of said electors and the said electors in the said two precincts were

wholly disfranchised; that the electors in the said precincts appealed to the said Charles E. Bunnell, judge aforesaid, by protest in writing, but that nothing was done by the said judge to right the wrong; that a similar fraudulent action by the commissioner in the election districts wherein Cripple Creek, Fish Creek, and other voting precincts in the fourth division are situated which were established precincts in the election held in 1916, prevented the electors therein from voting for this contestant on November 5, 1918, whereby the contestant lost the votes in the proportion in which they were cast in 1916, and the voters therein were disfranchised in the manner aforesaid.

16. That the return of the judges of election show that at the voting precinct of Copper Center, in the fourth judicial division of the Territory of Alaska, show that at the election held on the said 5th day of November, 1918, there were 10 votes cast, all of which said votes were, as stated by said return, cast for the contestee, Charles A. Sulzer, and were taken as true by said judges of election and counted, but as a matter of fact said votes should not be counted because the said election was illegal for the following reasons, to wit: That one Lewis T. Erwin is United States marshal for the fourth judicial division of Alaska and one Thomas J. Donohoe is Democratic national committeeman for Alaska and that both of said persons are friends and partisans of the contestee, Charles A. Sulzer, and managers of his political campaigns in the Territory of Alaska. That one R. Blix is now and for many years past has been a resident of Copper Center, in the Territory of Alaska, at which place he is and for several years last past has been the owner of real estate and buildings in said Copper Center, and that the United States post office for said Copper Center is established in a building owned by the said Blix and that it would be a financial loss to the said Blix and a great inconvenience to the said community if the said post office should be moved from the said Copper Center. That this contestee, Charles A. Sulzer, wrongfully taking advantage of said situation, through the aforementioned United States marshal and the aforementioned Democratic national committeeman for Alaska, unlawfully threatened the said Blix and all the other residents of said Copper Center that unless they used their utmost endeavor to procure, and did procure, all of the electors at Copper Center to cast their ballots for said Charles A. Sulzer, contestee, for the office of Delegate from Alaska at the election to be held at said precinct November 5, 1918, the said United States post office would be moved from said Copper Center, to the great injury of the said Blix and the said community, and that although the said Blix and the other residents of the said community were political supporters of this contestant, James Wickersham, and would have cast their respective ballots for him at the said election had the said threats above mentioned not been made, the said Blix and the said other electors, nevertheless, believing that the said threat so made by the said contestee would be carried into effect in case the said electors of the community did not unanimously cast their vote at the said election for the said Charles A. Sulzer for Delegate from Alaska, did, contrary to their views and opinions as to what was for the best interest of the public generally, and contrary to what they believed to be right and just, unanimously cast their votes for the said Charles A. Sulzer. That for the reasons above stated and because the said votes were illegally obtained under threat of fraudulently using and employing the patronage of the said Charles A. Sulzer, the said Thomas J. Donohoe, and the said Lewis T. Erwin, the vote cast at the said Copper Center precinct should not be credited to this contestee, and that the election at Copper Center should therefore be held null and void.

17. That at the Unalaska election precinct, in the Aleutian Islands recording district, in the third division of the Territory of Alaska, the judges of election executed a certificate of the result of the election held at said precinct on the said 5th day of November, 1918, purporting to show and declaring that the following vote was cast for each of the candidates for Delegate from Alaska to Congress, to wit: For James Wickersham, contestant, 17 votes; for Charles A. Sulzer, contestee, 54 votes; and that the canvassing board for the Territory of Alaska accepted said certificate of results as true and correct in canvassing the returns of said election and in deciding the question of how many votes were received by each of the said candidates at said election and in determining the result of said election. That in truth and in fact the election held at the said precinct of Unalaska was null and void and the said certificate of results of said election should be canceled and the votes therein alleged to have been received by each candidate should be deducted from the total vote for the following reasons, to wit: That at the said election held at the Unalaska

voting precinct no official ballots were used, nor did the electors prepare or have an opportunity to prepare their own ballots, but that, on the contrary, the judges of election at said election precinct inaugurated and maintained a system whereby they all and persons present at the polls were enabled to determine how each elector voted and for what particular candidate each elector cast his ballot, by then and there preparing one separate and distinct form of ballot for each of the candidates for Delegate from Alaska and requiring then and there each elector, when appearing at the polling place for the purpose of exercising his right as an elector, to announce which ballot he desired to vote, and thereupon and after such announcements had been made by the elector the judges would deliver to such elector the ballot for the candidate which he openly announced his intention to vote for, thus and thereby destroying utterly the secrecy of the ballot and making the election at that precinct in substance and effect a viva voce vote.

18. That at the election held at the Naknek election precinct, in the third judicial division of Alaska, on the said 5th day of November, 1918, the judges of election executed a certificate of the result of said election, purporting to show and announcing that 10 votes were cast for the contestee, Charles A. Sulzer, and no votes were cast for any other candidate. That said certificates of result so executed was accepted and treated by the Territorial canvassing board for Alaska as true and correct in canvassing the returns of said election and in deciding the result of said election, whereas in truth and in fact the said election at Naknek was illegal and void, and the said certificate of results should have been disregarded by the Territorial canvassing board and the votes from the said Naknek voting precinct should be eliminated from the total vote cast at said election for the following reasons, to wit: That no official ballots were used at said Naknek election precinct for said election, nor did the electors at said precinct prepare their own ballots, but that each of the electors was by the said judges of election given a printed ballot upon which was printed the name of William Maloney and the name of Charles A. Sulzer, who were designated as candidates for the Democratic nomination for Delegate from Alaska, and that the ballots alleged to have been cast for a Delegate to Congress from Alaska were in truth and in fact cast for a candidate for the Democratic nomination for the office of Delegate to Congress from Alaska; that except for the cross above mentioned no mark was made upon any of said ballots indicating an intention to vote for any candidate for the office of Delegate to Congress from Alaska; that no notice of any election of a Delegate to Congress from Alaska, to be held on the 5th day of November, 1918, had ever been given in the said Naknek voting precinct, and that the said electors believed that they were selecting some person as candidate for the Democratic nomination for the office of Delegate to Congress from Alaska.

19. That at the Cache Creek voting precinct in the third judicial division of the Territory of Alaska 25 votes were cast, 2 of which were cast for this contestant and the remaining 23 votes were cast for contestee, and that the judges of election in said election precinct in their certificate of the result of said election certified that at said precinct 2 votes were cast for contestant, James Wickershaw, and 23 votes were cast for Charles A. Sulzer, and the Territorial canvassing board accepted said certificate of results as true and correct in canvassing the votes of said election and in deciding how many votes were received by each candidate at said election, but that in truth and in fact the said election at Cache Creek was wholly illegal and void, except for the two ballots at said precinct cast for this contestant, and the votes alleged to have been cast for Charles A. Sulzer at said precinct should be deducted and eliminated from the general results for the following reasons, to wit: That notwithstanding the fact that the laws pertaining to general elections in Alaska provide that the polls at each precinct shall open at 8 o'clock in the morning and not earlier and shall remain open until 7 o'clock in the evening, the judges of election at the said Cache Creek precinct unlawfully and fraudulently and in violation of the law opened the polls at said precinct at the hour of 4 o'clock in the morning for the purpose of receiving ballots, and then and there, at the hour stated, and from thence on until 8 o'clock in the morning, received the said 23 ballots, all of which were cast for the contestee, Charles A. Sulzer, and that the 2 ballots cast for the contestant were cast between the hours of 8 o'clock in the morning and 7 o'clock in the evening, when the said polls were lawfully open.

20. That at the election at the Sourdough voting precinct in the third judicial division, on the 5th day of November, 1918, 12 votes were cast, of which 5



votes were cast for this contestant, James Wickersham, and 7 for contestee, Charles A. Sulzer, and the judges of election at said precinct, in their certificate of results at said election, stated said number of votes as having been cast for each of said candidates, which certificate was accepted as true and correct by the Territorial canvassing board in canvassing the result of said election and in deciding upon the number of votes cast for each candidate. That the aforementioned number of votes cast for the contestee at said precinct should be wholly eliminated, and the number of votes cast for contestant at said precinct should be increased by 15 votes, for the following reasons, to wit: That at the previous elections held in the said Sourdough election precinct the polling place had been established at the Sourdough road house, which is situated approximately in the center of said election precinct, and was well known and generally recognized as the polling place for said precinct. That in the immediate neighborhood of the said Sourdough road house there were not less than 15 legally qualified electors who were friends and political supporters of this contestant, and who would have voted for contestant at this election had they been afforded an opportunity to do so and had the polling place in said precinct remained at the Sourdough road house, but that William O'Connor, the United States commissioner for the Chitina recording district, wherein said Sourdough voting precinct is situated, well knowing that by changing the polling place in said Sourdough voting precinct from the Sourdough road house to the Gulkana road house, 22 miles distant and in the farthest corner of said voting precinct, would deprive at least 15 friends and political supporters of this contestant of an opportunity to cast their vote for this contestant at said election and deprive this contestant of the benefit of the votes of his said 15 friends and supporters in the immediate vicinity of the Sourdough road house, did so change the polling place for said precinct from the said Sourdough road house to the Gulkana road house, whereby said persons residing in said precinct were disfranchised and this contestant thereby was fraudulently deprived of the votes of said 15 electors who would have cast their votes for contestant but for said fraudulent acts.

21. That the laws pertaining to elections in Alaska provide that no voting precinct shall be established unless there are at least 30 qualified electors in such precinct, and also provide that there shall be only one polling place in each voting precinct. That nevertheless, and for the purpose of violating said law and affording special advantages to the contestee and his friends, the United States commissioner for the Chitina recording district, one William O'Connor, at the behest of contestee and the Democratic national committeeman, Thomas J. Donohoe, created during the month of September, 1918, the Kuskulana voting precinct, although he and they then and there knew that there were not 30 qualified electors in said precinct, and they then and there established in said Kuskulana voting precinct two separate and distinct polling places, all in violation of law, one of which polling places was designated as Kuskulana No. 1 and the other as Kuskulana No. 2. That the judges of election in their certificates of the result of said election at said Kuskulana No. 1 polling place, certified that the following vote had been cast at said polling place, to wit: For James Wickersham, contestant, 1 vote; for Charles A. Sulzer, contestee, 11 votes; and the judges of election at the said Kuskulana No. 2 polling place, in their certificate of the result of said election, certified that the following vote had been cast at said polling place, to wit: For James Wickersham, contestant, 2 votes; for Charles A. Sulzer, contestee, 4 votes; and that the Territorial canvassing board for the Territory of Alaska, accepted said certificates as true and correct in canvassing the returns of said election and in deciding upon the number of votes received by each candidate at said election. That for the reasons above stated the said certificates are null and void and should be eliminated from the results of said election.

22. That the Dillingham election district lies on Bristol Bay and along and on both sides of the Nushagak River, in the western part of the Territory of Alaska; that one Dr. L. H. French was the regularly appointed and acting commissioner in the said Dillingham recording and election district on November 5, 1918, and for about one year prior thereto; that said French is a violent partisan opponent of this contestant and was actively engaged in partisan efforts to prevent the electors in said district from casting their votes for this contestant; that the said Commissioner French established at least two voting precincts in the said Dillingham election district, to wit, the Choggiung voting precinct and the Nushagak voting precinct; that Nushagak is only about 5 miles from Dillingham, where the said commissioner resides and

holds his office, while Choggiung is only about 2 miles from the said place across the Wood River; that an election was duly held at Choggiung, but the said French, seeking to fraudulently deprive this contestant of the support of his friends in Nushagak precinct, failed and refused to appoint any election officers for Nushagak, or to forward to Nushagak for their use any of the blanks, ballots, and other material necessary for the holding of said election; that he caused a notice to be published of the holding of the election at Nushagak, but prevented the holding of the same by refusing to appoint the election officers and deliver the necessary blanks, ballots, etc., as provided by law, although he did supply the necessary blanks, ballots, etc., for the Choggiung voting precinct; that the said French well knew that at the election in 1916 this contestant had a large majority of the total vote in the Nushagak precinct, and for that reason fraudulently and purposely withheld authority and opportunity for the electors in said precinct to exercise their franchise on said November 5, 1918, thereby disfranchising all of the electors in said Nushagak voting precinct, whereby this contestant was deprived of the votes of more than 20 of the electors therein who would have voted for him for Delegate and not for the said Sulzer.

23. That at the election held in Alaska on November 5, 1918, a large number of ballots were cast for this contestant which were not counted for him by the election officers in the various precincts in the Territory, because of some alleged defect therein; that said ballots accompany the returns from the precincts in which they were cast and are now included in the returns in the possession of the governor of Alaska, at Juneau, Alaska; that the judge of election in every precinct in Alaska were appointed by the various commissioners and were almost generally hostile to this contestant by reason of their political opposition and their adherence to the Democratic Party organization; that all doubtful ballots and all doubtful offers to vote were decided against this contestant or in favor of his opponent, the said Sulzer, and that justice required a full examination of all the said ballots cast in the Territory of Alaska at said election in order that the true vote cast by the electors in said Territory may be made known and given effect in the determination of the election of the Delegate from Alaska at said election; that when the returns were received for compilation and issuance of a certificate to the successful candidate by the canvassing board in the city of Juneau, Alaska, said canvassing board began an inspection of such doubtful or rejected ballots and thereupon found that many mistakes or discriminations had been made against the interests of this contestant, and the governor of Alaska, fearing that a full investigation of said ballots would disclose that enough mistakes and discriminations had been made to elect this contestant, refused further to examine the said ballots and declared his intention to stand by the face of the returns, a sufficient portion of which had been received by that time to induce him to believe that the face of the returns would enable him to issue the certificate to the contestee, Sulzer; that this contestant alleges that a full and fair examination and compilation of the said returns and the said rejected ballots therewith and a fair consideration of the errors and mistakes made by the various election officers will show that this contestant was deprived of more than 50 votes without authority of law and would thereby be elected as Delegate and the said Sulzer defeated.

24. That at the said election held in the said Territory on November 5, 1918, the Democratic election officers being in full charge of every election voting precinct in the Territory, refused to permit a large number of persons, to wit, more than 50 such persons, who were qualified electors therein, to vote at said election, which said persons would each of them have voted for this contestant as Delegate to Congress from Alaska; that at the same time and by the same officers more than 50 illegal votes were admitted by the said election officers, which illegal votes were cast for the contestee, Charles A. Sulzer, and which, being illegal and unlawful, ought to have been rejected by the said election officers.

25. That Alaska is almost as large as the United States east of the Mississippi River; that the judicial divisions are each larger than the State of New York, and many of the election districts larger than many of the States of the Union; that there are four principal places for the conduct of business in relation to elections: Juneau, Valdez, Fairbanks, and Nome; that these points are from 400 to 500 miles apart; that during the months of April to July transportation in the interior and from point to point is almost impossible, as it is the

"break-up" season; that it is impossible for this contestant to reach the various points in the Nome and Fairbanks divisions, or to send attorneys or representatives there to take depositions in the time permitted by the statutes governing contested-election cases, on account of said great distances and the lack of transportation facilities; that it is, therefore, impossible, except along the telegraph line, to secure the necessary proofs of the frauds actually committed in the interior districts away from the line of telegraph; that especially in the fourth division, the judge of the district court, the district attorney and marshal, their clerks, commissioners, deputies, and employees, and all the officials connected with them in any way, are constantly engaged in political work, and are friends, partisans, and supporters of the contestee, Sulzer; that the same excessive zeal was exhibited throughout all these far distant and scattered interior voting precincts, and the same classes of frauds committed therein as are alleged herein to have been committed in the Ketchikan and other precincts in the first division, but on account of great distances and lack of statutory time it will be physically impossible to secure the evidence of such frauds in as great detail or as certainly as in the nearer precincts; that the officials in the interior precincts, well knowing the difficulties against which contestant labors, add thereto by refusing to assist in taking such evidence, and particularly the judge, the district attorney, and marshal at Fairbanks, and their clerks, deputies, and employees advise witnesses not to appear or testify, and in every way in their power prevent the taking of such testimony; that the contestee and his representatives also take advantage of the harsh and unusual conditions in said Territory to prevent the taking of evidence; that by reason of the entire election machinery being thus under the control of contestee's friends, they are able to and do shield and protect all persons who perpetuate election frauds in their interest from exposure or prosecution, and crimes against the elective franchise in the interest of contestee are perpetrated by officials from the governor and Delegate down the line, without fear of prosecution but with approval and political preference; probably nowhere in the United States is there so much official election frauds as in the interior Alaska precincts, where it is conceived, indulged in, and protected by the officials and their deputies, with the knowledge that it can not be punished or prevented by those injured thereby; it is even worse there than in the Ketchikan election district, where the most glaring instances are herein set forth.

Wherefore, contestant prays the House of Representatives of the United States for the Sixty-sixth Congress to hear this contest and evidence offered in support of it, and that the returns of the election held on November 5, 1918, be purged of unlawful ballots cast thereat, that contestant be credited with the ballots and votes to which he is lawfully and justly entitled; that there be subtracted from the total votes credited to the contestee the ballots and returns with which he has been wrongfully and unlawfully credited, and that a full and fair count of the ballots cast at said election be made in the interests of justice. That upon the final hearing the House of Representatives seat this contestant as such Delegate from Alaska in Congress as of right and under the laws of the United States it ought to do.

Dated Juneau, Alaska, May 3, 1919.

JAMES WICKERSHAM, *Contestant*.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

James Wickersham, being first duly sworn, says that he has read the foregoing petition by him subscribed and knows the contents thereof, and that the same is true as he verily believes.

JAMES WICKERSHAM.

Subscribed and sworn to before me this 3d day of May, A. D. 1919.

[SEAL.]

JOHN B. MARSHALL,  
*Notary Public for Alaska.*

My commission expires October 14, 1921.

#### NOTICE OF CONTEST.

To GEORGE B. GRIGSBY, Esq.

SIR: Please take notice that it is my intention to and I shall contest your alleged election and claim to the office of Delegate from Alaska in the House of Representatives of the United States for the Sixty-sixth Congress from the



Territory of Alaska, by virtue of that special election held in said Territory on the 8d day of June, A. D. 1919.

And also take notice that annexed hereto is a petition addressed to the said House of Representatives, specifying particularly the grounds upon which I rely in making said contest.

Dated at Washington, D. C., this 23d day of June, 1919.

JAMES WICKERSHAM,  
Contestant.

#### SPECIFICATION OF GROUNDS OF CONTEST.

*To the House of Representatives of the United States,*

*Sixty-sixth Congress, First Session:*

Comes now James Wickersham, contestant, and particularly specifies the following grounds upon which he relies in the contest herein against George B. Grigsby, contestee:

##### I.

That at all the times mentioned in this petition and ever since the passage of the act of Congress entitled "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska," approved May 7, 1906 (34 Stat. L., 169), it was and is the law of the United States that the people of the Territory of Alaska shall be represented by a Delegate in the House of Representatives of the United States, chosen by the people thereof in the manner and at the time prescribed by the laws of the United States, and who shall be known as the Delegate from Alaska.

##### II.

That at the general election held pursuant to the statutes of the United States in the Territory of Alaska on the 5th day of November, 1918, this contestant was a duly nominated candidate on the Republican ticket for the said office of Delegate from Alaska; that at that time this contestant was a native-born citizen of the United States and was then and is now, and for more than 18 years last past has been, an inhabitant and qualified voter in the Territory of Alaska, and on said 5th day of November, 1918, was not less than 25 years of age, and was then of the age of 61 years, and a resident of the town of Fairbanks, in said Territory of Alaska.

##### III.

That under and pursuant to the laws of the Territory of Alaska this contestant had been and was duly nominated as the Republican candidate for the office of Delegate from Alaska, and Charles A. Sulzer had been and was duly nominated as the Democratic candidate for said office, and Francis Connolly had been and was duly nominated as the Socialist candidate for said office, and all of said persons were entitled as such candidates to have their names printed on the official ballots to be used at the said election of November 5, 1918.

##### IV.

That at the said election so held in the Territory of Alaska on the 5th day of November, 1918, this petitioner, James Wickersham, received the greatest number of legal votes cast for any person or candidate for the office of Delegate to Congress from said Territory, and thereby was and now is the duly elected Delegate to Congress from said Territory, and was thereupon and now is entitled under the laws of the United States to a seat as Delegate from Alaska in the House of Representatives in the Congress of the United States in the Sixty-sixth Congress.

##### V.

That the canvassing board of the Territory of Alaska provided and authorized by the laws of the United States for the canvass and compilation of the returns of said and all elections for the election of Delegate to Congress from Alaska, and authorized to issue a certificate of election to the person receiving the greatest number of legal votes thereat, was composed of the governor of Alaska, the surveyor general of the Territory, and the collector of customs; that at

the times herein mentioned each and all of said officers were of the opposite political party of this contestant, and were all Democrats, and partisan opponents of this contestant; that the canvassing board long delayed the canvass and compilation of the returns of the election of November 5, 1918, and the same was not completed when, on April 15, 1919, the said Charles A. Sulzer died in said Territory of Alaska.

#### VI.

That said Charles A. Sulzer, the said candidate for Delegate on the Democratic ticket in opposition to this contestant, as aforesaid, died suddenly en route from his home at Sulzer post office, Alaska, to Ketchikan, Alaska, on the evening of April 15, 1919, and thereafter, on April 16, 1919, after being duly notified that he was dead, said canvassing board completed the long-delayed compilation of said election returns and declared that upon the face of the same said Sulzer had been elected by a plurality of 33 votes over this contestant; and on April 17, 1919, the said board issued a certificate of election in the name of said Charles A. Sulzer, then deceased, and forwarded the same to the Clerk of the House, and said certificate is now in the said files.

#### VII.

That within 30 days after the issuance of said certificate of election in the name of said Charles A. Sulzer, and on the 3d day of May, 1919, this contestant made, signed, and verified a notice of contest of said election of November 5, 1918, and the action of said canvassing board in issuing said certificate, and particularly specified in the same the grounds upon which this contestant relied in the contest, and on said May 3, 1919, placed the same in the United States registered mail at Juneau, Alaska, addressed to the clerk of the House of Representatives, Washington, D. C., and thereafter the same was duly received by the said clerk of the House, in Washington, D. C., on May 16, 1919, and was by the said clerk on June 2, 1919, transmitted to the Speaker of the House of Representatives, was received by the House on said date, and referred to the Committee on Elections No. 3, and ordered to be printed and was so printed as House Document No. 74, Sixty-sixth Congress, first session, and the same is referred to herein, made a part hereof, and served herewith on the said George B. Grigsby, contestee herein.

#### VIII.

That the Legislative Assembly of Alaska was in session at Juneau, Alaska, when said Sulzer died on April 15, 1919; that said legislature was composed of a majority of Democrats in both houses; that George B. Grigsby, the contestee herein, was then the duly elected and acting attorney general of said Territory, the adviser and counsellor of the said legislature and the Territorial officials, including the governor; that said Grigsby was also a partisan Democrat and violent opponent of contestant; that the said contestee and the said Democratic officials, including a majority of the members of both houses of the legislature, acting together, prepared and caused to be introduced in the said legislature a bill to call a special election to fill the alleged vacancy caused by the death of the said Sulzer, and the legislature did on April 25, 1919, 10 days after said Sulzer's death, pass said bill entitled "An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives, and declaring an emergency"; and the same was approved by the governor on April 28, 1919; that a full, true, and correct copy of said act is hereunto attached, made a part hereof, and verified herewith.

#### IX.

That this contestant is informed and advised by reputable and competent attorneys in Alaska that said act of the legislature, so passed and approved by the governor on April 28, 1919, is illegal, unconstitutional, and void because it is in conflict with and forbidden by the acts of Congress of May 7, 1906 (34 Stat. L. 169, secs. 392-407, Compiled Laws of Alaska, 1913), and the act of Congress of August 24, 1912 (37 Stat. L. 512, secs. 408-426, Compiled Laws of Alaska, 1913); and upon such information and advice, and upon his own judgment, contestant herein challenges and denies the legality of said act of the legislature, and of the election so held thereunder on June 3, 1919, and of

the certificate of election issued thereunder to the contestee herein on June 14, 1919, and of the right of the said contestee to a seat in the House of Representatives at any time or in any way on account thereof.

X.

That on the 28th day of April, 1919, immediately on approving the said act of the legislature, the governor of Alaska, under the advise of the said Grigsby, contestee, and then the attorney general and adviser of the said governor, issued a writ ordering that a special election be held in said Territory to fill the alleged vacancy in the office of Delegate to Congress caused by the death of said Sulzer on April 15, 1919, and ordered that said special election be so held in said Territory on June 3, 1919; and in said writ ordered the clerks of the courts, commissioners, election officers, and other officials having any duty to perform as such under the said acts of Congress not to perform said duties in accordance with said acts of Congress, but to do so in compliance with the aforesaid illegal, unconstitutional acts of the legislature; that a full, true, and correct copy of said writ so signed and issued by the governor is hereto attached and made a part of this notice of contest.

XI.

That said special election so provided for by said illegal act of the legislature so approved by the governor on April 28, 1919, was so attempted to be held in Alaska, in accordance with the governor's said writ and order, on June 3, 1919; that to enable the contestee and his political partizans unfairly and illegally to control said election they caused a section to be inserted in the said act of the legislature, as section 4 thereof, providing that the Australian ballot law theretofore passed by the Legislature of Alaska, and then in force at the elections in said territory, should not apply to the said special election provided for in the said act of April 28, 1919; and in the governor's said writ and order calling said election, it was ordered that said act shall not apply to the election hereby called, and the said election of June 3, 1919, was so held without the safeguards so provided by the said act to prevent frauds and illegal voting; that all those provisions of said acts of Congress of May 7, 1906, and August 24, 1912, requiring commissioners in their respective districts in Alaska to divide the same into voting precincts at least 60 days before the election, and to give notice of the holding of said election at least 30 days prior thereto, to appoint election officers, and all other provisions of the acts of Congress mentioned, for safeguarding the election from frauds and illegal voting, and giving full and fair notice to the electors, were, by the said act of the Legislature of Alaska, of April 28, 1919, and the governor's writ thereunder, rendered of no avail, and said duties so commanded by the said laws of Congress were not in any case performed, or done in compliance with said laws of Congress; that said election was attempted to be held in compliance with the said illegal act of the legislature of April 28, 1919, and the governor's writ thereunder; that no notice whatever was given of said election in many of the precincts in said Territory; and the people of said Territory had no legal notice and in many precincts no notice at all, of the holding of said election, whereby the legal voters in said Territory did not generally cast their ballots at said election, and were fraudulently and in violation of the act of Congress disfranchised and prevented from voting at all.

XII.

That by reason of said unconstitutional and illegal act of the legislature, and the fraudulent and illegal acts of the governor and the contestee and other officials under their control, whose duty it was under the aforesaid acts of Congress to give notice as therein required, more than one-half of the legal voters in said Territory were unlawfully deprived of their right to vote at said special election of June 3, 1919; that at the regular congressional election held in said Territory on November 5, 1918, when said Sulzer and Wickersham and Connolly were the candidates, there were more than 9,000 votes cast, whereas at the said special election of June 3, 1919, as this contestant is informed from telegraphic reports in the newspaper (for there has not yet been any canvass and compilation of the returns of said election officially made) there were less than one-half that number cast; that contestant is informed

from Juneau, Alaska, by telegraph, that said Grigsby did not receive more than 3,000 of said votes, whereas in the said congressional election of November 5, 1918, this contestant received on the face of the returns 4,454 votes.

#### XIII.

That the Territory of Alaska is almost as large as that part of the United States east of the Mississippi; its area is 590,884 square miles—more than 12 times as large as the State of Pennsylvania; that the clerks of the courts mentioned in the act of April 28, 1919, reside at Juneau, in the First Division, at Valdez, in the Third Division, at Fairbanks, in the Fourth Division, and at Nome, in the Second Division, respectively; that it is 626 miles from Juneau to Valdez, 373 miles from Valdez to Fairbanks, and 1,291 miles from Fairbanks to Nome, by the usual route traveled by the United States mail; that it requires from 3 to 5 months to collect the official returns after a congressional election in Alaska, on account of the great distances and slow and pioneer methods of transporting the mails; that United States mails are now carried as freight on the coastwise steamships and there is little or no transporting by railroad, and that only for short distances; that after the congressional election of November 7, 1916, on that account, the certificate of election to the Delegate to Congress was not issued till March 24, 1917, a period of 4 months and 17 days; that after the congressional election of November 5, 1918, the certificate of election to the Delegate was not issued till April 17, 1919, a period of five months and 12 days; but that after the special election of June 3, 1919, said false and spurious certificate of election was issued on June 14, 1919, to said Grigsby within a period of only 11 days after the election.

#### XIV.

That at the said special election so held in Alaska on June 3, 1919, for the alleged purpose of electing a Delegate from Alaska to Congress to fill the vacancy alleged by the death of said Charles A. Sulzer, on April 15, 1919, there were but two candidates, to wit: George B. Grigsby, contestee, Democrat, and J. L. Jones, labor union candidate; that contestant is unable to state accurately how many votes each received, for the election returns have not yet been all received by the governor at Juneau, Alaska, nor by the clerks of court in the judicial divisions into which Alaska is divided by acts of Congress aforesaid; that after said June 3, 1919, and on June 14, 1919, fraudulently and in violation of the laws of Congress aforesaid, the canvassing board of Alaska, composed of the governor of Alaska, the surveyor general and collector of customs, made, signed, and delivered a false and spurious certificate of election to the said George B. Grigsby, prior to and before the said canvassing board had canvassed and compiled all the official election returns or certificates, as required of them to do so by the said acts of Congress of May 7, 1906, and August 24, 1912.

#### XV.

That in the First (Juneau) Division of Alaska, there were 36 election or voting precincts established by the act of the legislature of April 28, 1919; that on June 14, 1919, when the said canvassing board so issued said false and spurious certificate of election to said Grigsby 32 official returns had been received by the canvassing board from 32 of said precincts, and no returns from four of them; that in the Second (Nome) Division of Alaska, there were 19 election or voting precincts established by the act of the legislature of April 28, 1919; that on June 14, 1919, when the said canvassing board so issued said false and spurious certificate of election to said Grigsby no official returns or certificates had been received from any of said voting precincts by the said canvassing board, and the clerk of the court at Nome had received but 11 official returns from said 11 voting precincts at that time, and there were 3 yet unreported, and neither said clerk nor said canvassing board had information as to the vote in them; that the clerk of the court at Nome, had, on said June 14, 1919, telegraphed to the said canvassing board the sum of the respective votes received by the two said candidates in said 11 precincts and it was upon such unofficial telegrams of the votes in 11 out of said 19 precincts that the said canvassing board based its action in respect to the vote in the Second Division and not upon the full official returns from each precinct as required by the act of Congress aforesaid; that in the Third (Valdez) Division of Alaska there



were 54 election or voting precincts established by the act of the legislature of April 28, 1919; that on June 14, 1919, when said canvassing board so issued said false and spurious certificate of election to said Grigsby but one official return or certificate had been received by the said canvassing board from any of said voting precincts in said division; and the clerk of the court at Valdez, had received but 39 official returns from 39 voting precincts in said division, at that time, and there were 15 voting precincts in said division unreported, and neither the said clerk nor said canvassing board had information as to the vote in them; that the clerk of the court at Valdez, had on said June 14, 1919, telegraphed to the said canvassing board the sum of the respective votes received by the two said candidates in said 39 precincts, and it was upon such unofficial telegram of the vote in 39 out of said 54 precincts that the canvassing board based its action in respect to the vote in the Third Division of Alaska, and not upon a canvass of the full official returns from each of said 54 precincts as required by the acts of Congress aforesaid; that in the Fourth (Fairbanks) Division of Alaska there were 50 election or voting precincts established by the act of the legislature of April 28, 1919; that on June 14, 1919, when said canvassing board so issued said false and spurious certificate of election to said Grigsby, not one official return or certificate had been received by the said canvassing board from any voting precinct in the said Fourth Division; and the clerk of the court at Fairbanks had received but 21 official returns or certificates from 21 voting precincts in said division at that time; and there were 29 voting precincts in said division unreported, and neither the said clerk nor the said canvassing board had information as to the vote in them; that the clerk of the court at Fairbanks had on said June 14, 1919, telegraphed to the said canvassing board the sum of the respective votes received by the two said candidates in said 21 precincts, and it was upon such unofficial telegram of the vote in 21 out of said 50 precincts that the canvassing board based its action in respect to the vote in the Fourth Division, and not upon a canvass of the full official returns from said 50 precincts as required by the acts of Congress aforesaid; that in the Territory of Alaska there were at the election of June 3, 1919, 159 election or voting precincts established by the act of the legislature of April 28, 1919; that on June 14, 1919, when said canvassing board so issued said false and spurious certificate of election to said Grigsby but 33 official returns or certificates had been received by the said canvassing board from all the voting precincts in said Territory; and the clerks of the courts in said Territory had received official returns from but 70 additional precincts, in said Territory, and there were at that time 56 election or voting precincts unreported, and neither the said clerk nor the said canvassing board had information as to the vote in them; that the said clerks of courts aforesaid had on said June 14, 1919, telegraphed to the said canvassing board the sum of the respective votes received by the two said candidates in said 70 additional precincts, and it was upon the basis of the official and full returns from said 33 election or voting precincts and upon said telegraphic statements from the clerks giving the sum of the votes reported to them in the 70 additional election or voting precincts in said Territory; that the canvassing board acted in issuing said false and spurious certificate of election to said Grigsby on June 14, 1919; that the said canvassing board had no official knowledge or information what the vote was in the missing and unreported 56 precincts in said Territory; that the action of the said canvassing board on said June 14, 1919, in issuing said certificate of election to said Grigsby, on the said 33 regular official returns and certificates, and the telegrams from the clerks of courts pretending to give the sum of the respective votes cast for the said two candidates in the said 70 additional precincts reported to the clerks, and the issuing of said certificate when 56 precincts were wholly unreported and the vote wholly unknown, was in violation of the mandatory provisions of the congressional election laws contained in the acts of Congress of May 7, 1906, and August 24, 1912, aforesaid, and the said certificate was illegal, fraudulent, and void.

Wherefore contestant prays the House of Representatives of the United States in the Sixty-sixth Congress to hear this contest and the evidence offered in support of it, and that the said election of June 3, 1919, may be declared illegal and void because not called or held in compliance with the laws of the United States and that said Grigsby be declared not to have been elected as Delegate to Congress from Alaska at said election, or at all.

Dated Washington, D. C., June 23, 1919.

JAMES WICKERSHAM, *Contestant*.

UNITED STATES OF AMERICA,

*District of Alaska, ss:*

James Wickersham, being first duly sworn, deposes and says that he has read the foregoing notice of contest and petition particularly specifying the grounds of said contest, and knows the contents thereof, and that the facts and statement therein stated are true as he verily believes.

JAMES WICKERSHAM.

Subscribed and sworn to before me this 24th day of June, 1919.

[SEAL.]

HARRY PILLEN,

*Notary Public in and for the District of Columbia.*

My commission expires the 24th day of January, 1923.

HOUSE BILL NO. 54.

An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives, and declaring an emergency.

*Be it enacted by the Legislature of the Territory of Alaska:*

SECTION 1. In case of a vacancy caused by death, resignation, incapacity, or from any other cause in the office of Delegate from Alaska in the House of Representatives, the governor of the Territory of Alaska shall cause a special election to be held to fill such vacancy, and shall issue a writ ordering such special election to be held not less than 30 days from the date of the writ. The governor shall, immediately upon the issuance of the writ, notify the clerk of the United States District Court of each division of the Territory of the issuance thereof, giving such notice by telegraph where necessary, and the clerk of the court of each division of the Territory shall immediately cause notice of such writ to be given to the city council of each incorporated town in his division and to each United States commissioner therein by the most rapid means of communication, telephone, telegraph, or otherwise.

Upon the receipt of such notice it shall be the duty of the common council of each incorporated town to at once give notice of the election by posting a written or printed notice in three public places in each precinct in said town, specifying the time, place, and purpose of the election, and in case there are one or more newspapers of general circulation published in the town, then a copy of such notice shall be published at least once in one of such newspapers prior to the date of election.

The common council of each incorporated town shall also, at the time of providing for the giving of notice, appoint three judges of election and two clerks for each voting precinct, all of whom shall be qualified voters of the precinct; and no more than two judges and one clerk shall belong to the same political party; and shall immediately notify said judges and clerks of such appointment.

The United States commissioner in each recording district shall, upon receipt of said notice from the clerk of the court, at once proceed to give notice of the election by posting written or printed notices thereof specifying the time, place, and purpose of the election, which notices shall be posted as follows: One at the office of the commissioner in said recording district and one in each of three conspicuous public places in each of said voting precincts in said recording district, one of which shall be the polling place in the precinct.

The failure of any commissioner to post said notices as herein provided on account of notice not having been received by him from the clerk of the court in time, shall not invalidate the election held in any precinct if held at the time provided for in the writ issued by the governor of Alaska.

Each United States commissioner shall also select, notify, and appoint from the qualified electors in each voting precinct three judges of election for said precinct, not more than two of whom shall be of the same political party.

Upon the failure of any United States commissioner to appoint and notify judges of election as herein provided, the qualified voters present at any election precinct on the day of election may select judges by viva voce vote in the same manner as provided by law in case where judges of election fail to appear and qualify.

SEC. 2. The election precincts in and outside of incorporated towns shall be the same as those established for the last previous general election.

SEC. 3. The election, when held, shall be governed by the laws of Congress regulating general elections in the Territory of Alaska, except as otherwise provided by this act: *Provided*, That in the canvassing of the returns the canvassing board may, in their discretion, accept telegraphic returns from

the clerk of the court of each division, and that a certificate of election may issue, prior to the receipt of the returns from all election precincts, when it is apparent that the vote cast at the missing precincts will not change the result.

SEC. 3½. That the qualifications of voters at said special election shall be the same as those prescribed by the laws of Congress and the Territory of Alaska covering general elections.

SEC. 4. The provisions of chapter 25 of the Session Laws of Alaska, 1915, entitled, "An act to provide official ballots for elections in the Territory of Alaska," shall not apply to the special elections provided for in this act.

SEC. 5. It shall be the duty of the clerk of the court in each division to provide and furnish to each United States commissioner therein necessary election supplies, stationery, duplicate registers, and tally sheets for use in the various precincts, and to forward the same to such commissioners as soon as possible after receipt by said clerk of the notice of the issuance of the writ of election; but in any precinct where such supplies fail to arrive the judges and clerks of election shall provide the necessary supplies, stationery, registers, and tally sheets.

SEC. 6. That an emergency is hereby declared to exist and this act shall take effect from and after its passage and approval.

Passed the House April 23, 1919.

Passed the Senate April 25, 1919.

Approved April 28, 1919.

JUNEAU, ALASKA, April 28, 1919.

I have to-day issued the following writ of election to fill vacancy in office of Delegate from Alaska:

*"To whom concerned:* Whereas, a vacancy exists in the office of Delegate from Alaska in the House of Representatives of the United States, said vacancy having been caused by the death, on the 15th of April, 1919, of the Hon. Charles Sulzer, Delegate from Alaska in the House of Representatives of the United States:

"Now, therefore, I, Thomas Riggs, jr., governor of the Territory of Alaska, under and by virtue of the authority conferred upon me by act of the legislature of the Territory of Alaska, entitled, 'An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives and declaring an emergency,' approved April 28, 1919, do hereby order that an election be held in the Territory of Alaska on Tuesday, the 3d day of June, 1919, for the purpose of electing a Delegate from Alaska in the House of Representatives of the United States to fill the vacancy caused as aforesaid. And the clerks of the United States District Courts of the several judicial divisions of the Territory are hereby directed to forthwith cause notice of this writ to be given to the common council of each incorporated town in their respective divisions, and to each United States commissioner therein by the most rapid means of communication—by telegraph, by telephone, or otherwise. And the common council of each incorporated town in the Territory of Alaska is hereby directed to forthwith give notice of election hereby called, by posting written or printed notices thereof in three public places in each precinct in said town, specifying the time, place, and purpose of such election, and in towns where there is a newspaper of general circulation published to cause a copy of such notice of election to be published at least once in such newspaper prior to the date of election. And the common council of each incorporated town is further directed to forthwith appoint three judges of election and two clerks and to notify said judges and clerks of their appointment. Not more than two judges and one clerk shall belong to the same political party.

"And the United States commissioner in each recording district is hereby directed to forthwith give notice of the election hereby called by posting written or printed notices thereof, specifying the time, place, and purpose of the election, and such notices shall be posted as follows: One at the office of the commissioner of said recording district and one in each of three conspicuous places in each of the voting precincts in said recording district, one of which shall be the polling place in the precinct. And the United States commissioner in each recording district is further directed to forthwith appoint three judges of election for each voting precinct in said recording district, not more than two of whom shall be of the same political party. The election precincts in and outside of incorporated towns shall be the



same as those established for the last previous general election. The election when held shall be governed by the laws of Congress regulating general elections in the Territory of Alaska as set forth in chapter 2, Title 11, of the Compiled Laws of Alaska. The qualifications of voters at the special election shall be the same as those prescribed by section 394, chapter 2, Title 11, of the Compiled Laws of Alaska, as modified by chapter 1 of the Session Laws of Alaska for 1913, entitled, 'An act to extend the elective franchise to women of the Territory of Alaska,' approved March 21, 1913. The form of ballot shall be the same as that prescribed by section 400, chapter 2, Title 11, of the Compiled Laws of Alaska, and the provisions of chapter 25, Session Laws of Alaska, 1915, entitled, 'An act to provide official ballots for elections in the Territory of Alaska,' shall not apply to the election hereby called.

"Given under my hand and the seal of the Territory, at Juneau, the capital, this 28th day of April, in the year of our Lord one thousand nine hundred and nineteen, and of the independence of the United States the one hundred and forty-third."

THOMAS RIGGS, JR., Governor.

UNITED STATES OF AMERICA,

*District of Columbia, ss:*

M. W. Pickering, being first duly sworn, deposes and says that he is a citizen of the United States over the age of 21 years. That on the 28th day of June, 1919, he personally delivered to George B. Grigsby, of Alaska, a full, true, and correct copy of the notice of contest in the contested election case of Wickersham against Grigsby, and also a printed copy of House Document 74, containing full, true, and correct copy of notice of contest of Alaska election, November 5, 1918, James Wickersham contestant, said service being made at the Washington Hotel in Washington, D. C., by personally delivering the same to the said Grigsby.

M. W. PICKERING.

Subscribed and sworn to before me this 28th day of June, 1919.

[SEAL.]

H. M. VANDEVOERT,  
Notary Public.

#### ANSWER TO NOTICE OF CONTEST.

Comes now George B. Grigsby, contestee, and makes the following answer to the specification of grounds of contest of James Wickersham, contestant.

#### PART I.

##### I.

Contestee admits the allegations contained in paragraphs 1, 2, and 3 of said specifications of grounds of contest.

##### II.

Contestee denies each and every allegation contained in paragraph 4 of said specification.

##### III.

Contestee admits the allegation contained in paragraph 5 of said specification that the Canvassing Board of the Territory of Alaska provided and authorized by the laws of the United States for the canvass and compilation of the returns of said and all elections for the election of Delegate to Congress from Alaska, and authorized to issue a certificate of election to the person receiving the greatest number of votes, was composed of the governor of Alaska, the surveyor general of the Territory, and the collector of customs.

Contestee denies the allegations contained in said paragraph that at the times therein mentioned each and all of said officials were of the opposite political party of said contestant, and were all Democrats and partisan opponents of said contestant; denies that the canvassing board long delayed the canvass and compilation of the returns of the election of November 5, 1918.

Contestee alleges that said canvassing board was composed of Thos. Riggs, jr., governor of Alaska; Charles E. Davidson, surveyor general of Alaska;

and Charles D. Garfield, acting collector of customs, and further alleges that the said Charles E. Davidson and the said Charles D. Garfield were not partisan opponents of said contestant, James Wickersham, and that the said Charles Garfield was not and is not a Democrat and partisan opponent of said contestant.

Contestee admits that the canvassing and compilation of said returns was not completed when on April 15, 1919, the said Charles A. Sulzer died in the Territory of Alaska, but alleges that on said April 15, and previous to that time the said canvassing board could not complete said canvass and compilation of returns for the reason that all of said returns had not been received by said canvassing board; that on said 15th day of April, 1919, the returns of the election had not been received from the town of Nome, Alaska, and from other precincts in this vicinity of Alaska, and that said returns from Nome and vicinity were not received until after the death of the said Charles A. Sulzer; that the said James Wickersham at the election of November 5, 1918, carried the town of Nome, Alaska, and the said precincts in the vicinity thereof by several hundred votes, and that if the said canvassing board had completed their canvass and compilation of the returns of said election prior to the receipt of the returns from Nome, Alaska, and the other said precincts, the said contestant, James Wickersham, would have been defeated and the said Charles A. Sulzer would have been elected by several hundred votes.

#### IV.

Contestee admits the allegations contained in paragraph 6 of said specification of the grounds of contest, except that contestee denies that the compilation of said election returns was in any way delayed by said canvassing board, and alleges that said canvassing board proceeded to canvass and file the election returns immediately upon their receipt at Juneau, Alaska, by the governor of Alaska, which contestee alleges was on the 16th or 17th day of April, 1919.

#### V.

Contestee admits the allegations contained in paragraph 7 of said specification, as follows: That within 30 days after the issuance of the certificate of election to Charles A. Sulzer, and on or about the 3d day of May, 1919, said contestant made, signed, and verified a purported notice of contest of the election of November 5, 1918, and particularly specified in the same the grounds upon which the said contestant relied in said purported contest, and contestee admits that the same was placed in the United States registered mail on or about the 3d day of May, 1919, addressed to the Clerk of the House of Representatives, Washington, D. C., and that thereafter the same was duly received by the said Clerk of the House of Representatives in Washington, D. C., on or about May 16, 1919, and by the said Clerk on June 2, 1919, transmitted to the Speaker of the House of Representatives and received by the House on said date, and referred to the Committee on Elections No. 3, and ordered to be printed, and was so printed as House Document No. 74, Sixty-sixth Congress, First session, and that said document was served on this contestee and made a part of the specification of grounds of contest herein.

#### VI.

Contestee admits the allegations contained in paragraph 8 of said specification, as follows:

That the Legislative Assembly of Alaska was in session at Juneau, Alaska, when said Sulzer died on April 15, 1919; that George B. Grigsby, the contestee herein, was the then duly elected and acting attorney general of the Territory of Alaska, the adviser and counsellor of the said legislature and Territorial officials, including the governor. Contestee admits that the said Grigsby was a partisan Democrat and a political opponent of contestant, but denies that he was ever violent in that regard; contestee admits that he, the said contestee, and a majority of the members of both houses of the legislature caused to be introduced in the said legislature a bill to call a special election to fill the vacancy caused by the death of the said Sulzer, and that the said legislature did on the 25th day of April, 1919, pass said bill, entitled "An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representa-

tives, and declaring an emergency," and that the same was approved by the governor of Alaska on April 28, 1919, and that a substantially full and correct copy of said act is attached to the notice of contest and specification of grounds of contest herein and served upon this contestee.

Contestee denies the allegations contained in said paragraph 8, as follows: That the said Legislature of the Territory of Alaska was composed of a majority of Democrats in both Houses and denies that the Territorial officials, including the governor and a majority of the members of both houses of the legislature acting together with the said Grigsby, prepared the said legislative act of April 20, 1919, but alleges the fact to be that the said bill for a special election was prepared by this contestee at the request of a majority of the members of the said legislature, and not otherwise; that the same was introduced for passage in said legislature; that both houses of said legislature were very evenly divided politically; that the house of representatives of the said legislature consisted of 16 members; that the Democrats had a majority of 4 in said house; that the said senate consisted of 8 members; that of said 8 members 4 were either Republicans or partisan supporters of the said James Wickersham, contestant; that the bill for the special election prepared and introduced, as aforesaid, received the unanimous vote of both branches of the legislature.

#### VII.

Contestee denies the allegations contained in paragraph 9 of said specification and the whole thereof, and alleges that the said act of the Legislature of Alaska approved April 28, 1919, which provides for a special election to fill a vacancy in the office of Delegate to Congress from Alaska is legal and constitutional and not in conflict with and not forbidden by the acts of Congress of May 7, 1906, and August 24, 1912, and that the election held thereunder on June 3, 1919, was in all respects legal, and that the certificate of election issued under and by virtue of said election to this contestee was in all respects legal and valid and entitled this contestee to a seat in the House of Representatives to fill the vacancy caused by the death of the said Charles A. Sulzer.

#### VIII.

Contestee admits the allegations contained in paragraph 10 of said specification that on the 28th day of April, 1919, immediately on approving the said act of the legislature providing for a special election the governor of Alaska, under the advice of the said Grigsby, this contestee, the then attorney general of Alaska and adviser of the said governor, issued a writ ordering that the said election be held in Alaska to fill the said vacancy in the office of Delegate to Congress caused by the death of the said Sulzer on April 15, 1919, and that the said governor in said writ directed that the said election be held in said Territory on June 3, 1919.

Contestee denies that the governor in said writ ordered the clerks of the court, United States commissioners, and other officials having any duty to perform as such under the said acts of Congress, not to perform said duties in accordance with said acts of Congress.

Contestee admits that the copy of said writ of election attached to contestant's notice of contest and specification of grounds thereof is a substantially true and correct copy of said writ.

Contestee denies that said governor of Alaska in said writ directed the aforesaid officials to perform said acts in compliance with the illegal, unconstitutional acts of the legislature, but alleges that said governor of Alaska, on the contrary, directed as follows:

"The election when held shall be governed by the laws of Congress regulating general elections in the Territory of Alaska, as set forth in chapter 2, Title II, of the Compiled Laws of Alaska."

#### IX.

Answering paragraph 11 of said specification, contestee denies each and every allegation contained therein except those hereinafter specifically admitted.

Contestee admits that section 4 of the act of the Legislature of the Territory of Alaska approved April 28, 1919, providing a special election to fill a vacancy in the office of delegate from Alaska in the House of Representatives,

did provide that the Australian ballot law theretofore passed by the Legislature of Alaska should not apply to said special election, and that the governor's said writ and order calling said election did direct that said Australian ballot law should not apply to the election called for June 3, 1919.

Contestee alleges that by reason of the great distance and inadequate transportation and mail facilities existing in Alaska, said Australian ballot law was inapplicable to said special election; that 30 days' notice of special election to fill a vacancy in the House of Representatives is a longer period of notice than is generally required by the laws of the respective States, and is a reasonable and sufficient period of notice for an election to fill a vacancy in the office of Delegate to Congress from Alaska, and that it would have been impossible to have held said election in compliance with the provisions of said Australian ballot law for the reason that the official ballots required by said law to be printed by clerks of the court of the respective divisions of Alaska could not have been so printed and mailed to the respective election precincts in Alaska in time to have reached said precincts within said period of 30 days; that the said Australian ballot act passed by the Alaska Legislature provides, among other things, as follows:

"SEC. II. That the name of any candidate for the office of Delegate to Congress shall be placed upon the official ballot upon the filing of nomination papers bearing the signatures of not less than 250 qualified voters of the Territory, not less than 75 days before the date of the election, with the clerk of the district court of the judicial division in which the candidate resides, and such clerk shall immediately forward certified copies of the nomination papers to the clerks of the court of the other judicial divisions, and such certified copies shall be accepted for filing and have the same force and effect as the original nomination papers."

That the provisions of said Australian ballot act were not made applicable to said special election by the Legislature of Alaska for the reason that at the time of the passage of the act providing for special election the Legislature of Alaska anticipated that Congress would soon be called in extra session, and said legislature and the members thereof believed it to be for the interests of the Territory of Alaska that said Territory be represented in said extra session by a Delegate to Congress, and that it was for the best interests of the Territory of Alaska on account of the aforesaid conditions that the provisions of the Australian ballot law to be dispensed with in said special election, otherwise the said vacancy existing in the office of Delegate to Congress from Alaska could not have been filled until said extra session was far advanced, if not concluded. Contestee further alleges that the special election of June 3, 1919, was in all respects conducted in accordance with the laws of Congress pertaining to general elections in the Territory of Alaska.

## X.

Answering paragraph 12 of said specifications, contestee denies each and every allegation therein contained except those allegations hereinafter in this paragraph admitted.

Contestee admits that at the regular congressional election held in the Territory of Alaska on November 5, 1918, there were more than 9,000 votes cast. Contestee alleges that none of the legal voters of the said Territory were unlawfully deprived of their right to vote at said special election of June 3, 1919; that considerably more than one-half as many votes were cast at said special election as were cast at the regular election of November 5, 1918; that the reason that the vote cast was less than that cast at the regular election of November 5, 1918, was because there was no Republican candidate nominated to run against the said Grigsby, the contestee herein, and on that account the election of the said Grigsby was practically conceded, and that therefore, very little effort was made to induce the voters to turn out at the polls at said election.

## XI.

Answering paragraph 13 of said specification, contestee admits all the allegations contained therein, except the allegation "that after the special election of June 3, 1919, said false and spurious certificate of election was issued on June 14, 1919, within a period of only 11 days after the election." Contestee admits that the said certificate of election was issued on June 14, 1919, and

within a period of 11 days after the election, but denies that the same was false and spurious, and alleges, on the contrary, that said certificate was legal and issued according to law.

## XII.

Answering paragraph 14 of said specifications, contestee admits that in the special election of June 3, 1919, there were but two candidates, to wit, George B. Grigsby, contestee, Democrat, and J. L. Jones, Labor Union candidate. Contestee denies each and every other allegation contained in said paragraph 14.

## XIII.

Answering paragraph 15 of said specification, contestee denies any knowledge of information sufficient to form a belief as to the truth of the allegations therein contained, with reference to the number of voting precincts from which election returns had been received when the certificate of election was issued to said Grigsby, this contestee, and therefore denies said allegation.

Contestee denies each and every allegation contained in said paragraph, except those hereinafter specifically admitted.

Contestee alleges that the special election act of the Legislature of Alaska of April 28, 1919, among other things, provides as follows:

"That in the canvassing of the returns the canvassing board may in their discretion accept telegraphic returns from the clerk of the court from each division, and that a certificate of election may issue previous to the receipt of returns from all election precincts when it is apparent that the vote from the missing precinct will not change the result."

Contestee alleges that at the time when the certificate of election was issued to the contestee herein, to wit, on June 14, 1919, the said Grigsby had a majority of 980 votes over his opponent, J. L. Jones, according to all returns received by the canvassing board by mail and by telegraphic advice from the clerks of the court of the various divisions, and that the total vote cast in the election of November 5, 1918, for all candidates in the election precincts from which on said 14th day of June, 1919, no returns had been received was less than 980 votes; that, therefore, at the time the said certificate of election was issued to the said Grigsby, contestee herein, there was no possibility of the missing returns altering the result; that accordingly, on said June 14, 1919, in compliance with the special election act aforesaid, and not in violation of any act of Congress, the said canvassing board duly, and in accordance with law, issued a certificate of election to the said George B. Grigsby, contestee herein.

## PART II.

Answering the specification of grounds of contest set forth in House Document No. 74, which has been served upon this contestee and made a part of the specification of grounds of contest herein, contestee admits, denies, and alleges as follows:

### I.

Contestee admits the allegation contained in paragraphs 1, 2, and 3 of said specification of grounds of contest.

### II.

Contestee denies each and every allegation contained in paragraph 4 of said specification of grounds of contest.

### III.

Answering paragraph 5 of said specification of grounds of contest, contestee denies each and every allegation contained therein except those allegations hereinafter specifically admitted.

Contestee admits that the Canvassing Board of the Territory of Alaska provided by the laws of Congress for the canvass and compilation of the returns of said election and authorized to issue the certificate of election to the person receiving the greatest number of legal votes thereat was composed of the governor, the surveyor general, and the collector of customs.

Contestee alleges that the canvass and compilation of the returns of said election by said canvassing board was completed as soon as all the returns of



said election were received by said canvassing board and that the compilation of said canvass was delayed until the 16th day of April, 1919, by reasons of the fact that the returns from Nome, Alaska, and from several other precincts in the vicinity of Nome, Alaska, were not received by the governor of Alaska nor by the said canvassing board until the 16th day of April, 1919; that it was a matter of common knowledge in Juneau, Alaska, that the returns from Nome, Alaska, and the precincts in the vicinity thereof were not received by the governor of Alaska prior to said date, as the contestant, James Wickersham, at all times subsequent to said date well knew; that it was a matter of common knowledge at Juneau, Alaska, and was well known to the said James Wickersham, on May 3, 1919, when he transmitted the document now known as House Document No. 74 to the Speaker of the House of Representatives, that on account of the epidemic of Spanish Influenza at Nome, Alaska, and elsewhere in the second division of Alaska the United States mails were quarantined from a period beginning shortly after the close of navigation in October, 1918, and ending on the 15th day of February, 1919, and that the returns of said election of November 5, 1918, did not and could not leave, Nome, Alaska, prior to February 15, 1919, all of which was well known to the said James Wickersham when on the 3d day of May, 1919, he subscribed and swore to the allegations contained in paragraph 5 of said specification of grounds of contest.

Wherefore contestee alleges that the allegation contained in paragraph 5 of said specification of grounds of contest, "that seeking to embarrass and delay this contestant in securing a prompt and fair settlement of his rights in the matter of said office and in ascertaining the result of said election so held in said Territory on November 5, 1918, the said canvassing board purposely delayed the collection of the official election returns and the canvass thereof from month to month until April 16, 1919," was and is false, and willfully false, as the said James Wickersham on the said 3d day of May, 1919, when he subscribed and swore to said allegations then and there well knew.

Contestee further alleges in this behalf that the contestant, James Wickersham, received a majority of several hundred votes in Nome, Alaska, and the precincts in the vicinity thereof, and that if the canvassing board had completed their official canvass prior to the receipt of the returns from Nome, Alaska, and vicinity, the said James Wickersham would have been defeated in the election of November 5, 1918, by several hundred votes and Charles A. Sulzer would have been elected by a majority of several hundred votes

#### IV.

Contestee admits the allegations contained in paragraph 6 of said specification of grounds of contest except the allegation therein contained that the compilation of the election returns was delayed by the canvassing board. Contestee alleges that the only delay of the compilation of the election returns of the election of November 5, 1918, was caused as in the last paragraph stated, by the nonarrival of the election returns from Nome, Alaska, and vicinity.

#### V.

Answering paragraph 7 of said specification of grounds of contest, contestee denies each and every allegation contained therein except that the governor of Alaska did announce in most, if not all, the newspapers of Alaska that it was his intention to issue on or about the 29th day of April, 1919, a call for a special election, to be held on June 3, 1919, to fill the vacancy caused by the death of Charles A. Sulzer in the office of Delegate from Alaska in the House of Representatives.

#### VI.

Answering paragraph 8 of said specification of grounds of contest, contestee denies each and every allegation therein contained except those hereinafter specifically admitted. Contestee denies that the Territorial canvassing board in canvassing the returns of said election of November 5, 1918, and in deciding and determining how many votes were cast for each candidate based their decision exclusively upon the face of the certificates of results of the election at each precinct throughout the Territory, but contestee alleges that in making said canvass the said canvassing board took into consideration the ballots which accompanied the returns, compared the number of ballots with the

number of ballots stated in the certificates of results from the various precincts, and corrected errors of computation.

Contestee admits that said canvassing board did not take into consideration errors or mistakes in the conduct of the election by electors and officials, and admits that said canvassing board did not take into consideration errors or mistakes in the determination of results by the judges of election except errors of computation.

Contestee admits that in some of the voting precincts in said Territory in the matter of the counting or rejection of certain ballots the judges of election made errors and in some cases rejected ballots that should have been counted and in other cases counted ballots that should have been rejected, but contestee alleges that such errors and mistakes were few in number, and further alleges that such mistakes and errors were not more prejudicial to the said contestant, James W. Wickersham, than to his opponent, Charles A. Sulzer, and contestee further alleges that the said canvassing board was without the power to correct said mistakes and errors, except errors of computation, but was compelled by the laws of Congress to canvass and compile the vote specified in the said certificates of result.

## VII.

Answering paragraph 9 of said specification of grounds of contest, contestee admits, denies, and alleges as follows:

Contestee admits that the act of the Legislature of Alaska approved May 3, 1917, was as set forth in said paragraph, but denies that said act was void or in violation of the acts of Congress relating to the same subject in Alaska in so far as said act relates to prescribing the forms of ballots at said election. Contestee alleges that he did, pursuant to said act, as attorney general of Alaska, fully, and not in part, comply with all the provisions of said act; that he did prescribe the form of official ballots and that the form prescribed by him was in accordance with the laws of Congress relating to the same subject in Alaska; that this contestee, as attorney general of Alaska, did prescribe and prepare forms of official ballots, register of votes, registration books, certificates, and oaths of judges, election certificates, and all other forms necessary for the conduct of the election of November 5, 1918, and furnished said forms to the election officials for use in said election; that said forms were universally used and followed throughout Alaska in the election of November 5, 1918, and were legal and proper forms and were not objected to by the contestant, James W. Wickersham, prior to said election nor since said election.

Contestee admits that as attorney general he caused to be printed in the instructions to election officials an instruction to the effect that no person could vote in said election except that said person had been for one year immediately preceding the date of election an actual and bona fide resident of the Territory of Alaska, and a resident of the voting precinct where he voted for at least 30 days immediately preceding the date of said election.

Contestee denies that fraudulently intending to permit illegal votes to be cast by Democratic partisans in violation of such law and instructions, the election officers, in many precincts, and especially in Ketchikan, Charcoal Point, Juneau, Sulzer, Craig, Baranof, Douglas, and Valdez precincts, and a large number of other precincts in said Territory, allowed persons to cast their ballots therein well knowing that such persons were not qualified to vote in such precincts under the acts of Congress and the instructions of the attorney general, and in that behalf contestee alleges that by an act of the Legislature of Alaska, approved April 27, 1915, it was enacted that "any person of the age of 21 years or more, who is a citizen of the United States, who has lived in the Territory of Alaska one year, and in the judicial division in which he or she offers to cast his or her vote 30 days immediately preceding such election, shall be entitled to vote at all elections therein; \* \* \* that in the election for Delegate to Congress in 1916 the said act of the Legislature of Alaska so changing the qualifications of voters as aforesaid was accepted by the election officials and voters of Alaska and by the candidates for office, including the said James Wickersham, as being the law in force governing the qualifications of voters at said election. That at the time of the Delegate election of November 5, 1918, there was a great difference of opinion in this regard throughout Alaska; that in one or more election precincts of Alaska

it was agreed between the supporters of Charles A. Sulzer and the supporters of James Wickersham, respectively candidates for Delegate to Congress, that no challenges would be interposed to persons offering to vote for the reason that said persons were not residents of the precincts in which they offered to vote; that in many other precincts no challenges were interposed on account of said nonresidence in the precinct where the person offered to vote; that in many of the election precincts of Alaska persons voted for James Wickersham for Delegate to Congress at the election of November 5, 1918, who had not been residents of the precincts where they voted for 30 days prior to said election, as will hereinafter more fully appear.

Contestee denies any information or knowledge sufficient to form a belief as to the allegation contained in said paragraph 9 to the effect that disqualified persons were allowed to cast their votes in Ketchikan, Charcoal Point, Juneau, Sulzer, Craig, Baranoff, Douglas, Valdes, and a large number of other precincts in said Territory and therefore contestee denies said allegation and the whole thereof.

#### VIII.

Answering paragraph 10 of said specification of grounds of contest: contestee denies and alleges as follows:

1. Contestee denies any information or knowledge sufficient to form a belief as to whether or not said Charles A. Sulzer voted at Charcoal Point at the election of November 5, 1918, as in subdivision 1 of said paragraph 10 alleged, and therefore denies the same, but contestee alleges that if the said Charles A. Sulzer voted at Charcoal Point as alleged in subdivision 1 of said paragraph 10, that he did so in good faith and in the belief that he was entitled so to do in accordance with the provisions of the act of the legislature of the Territory of Alaska of 1915, and not with fraudulent or criminal intent.

2. Answering subdivision 2 of said paragraph 10, contestee admits that on November 5, 1918, one W. H. Morrissey was the duly appointed clerk of the said Charles A. Sulzer and was under salary as such clerk from the fund appropriated by Congress for such purpose, but denies any knowledge or information sufficient to form a belief as to the truth of the allegation contained therein to the effect that the said Morrissey voted for the said Charles A. Sulzer for Delegate to Congress on November 5, 1918, and that said vote was received, counted, and carried into the returns and is now credited to the said Sulzer in the total vote, and therefore denies said allegation.

Contestee alleges that the said W. H. Morrissey was and had been a resident of Juneau, Alaska, for 30 days immediately prior to said election of November 5, 1918, and was on said date entitled to vote at Juneau, Alaska.

Contestee denies that if the said Morrissey voted at Juneau, Alaska, on November 5, 1918, he did so knowing said act to be a crime, and that he committed said crime willfully and without fear of punishment, knowing that all officers in said division whose duty it was to prevent and punish offenses against the election laws were political friends and supporters of the said Charles A. Sulzer.

3. Answering subdivision 3 of paragraph 10, contestee admits that on November 5, 1918, R. W. Jennings was the judge of the District Court of Alaska, Division No. 1; W. A. Holzheimer was the judge of the District Court of Alaska, Division No. 2; Fred M. Brown was the judge of the District Court of Alaska, Division No. 3; Charles E. Bunnell was the judge of the District Court of Alaska, Division No. 4; that it is the duty of the said district judges to appoint and at pleasure remove commissioners in and for the district and that each of said judges had long prior to said election of November 5, 1918, so appointed commissioners in each recording district, and contestee admits that the duties of said commissioners were substantially as set forth in said subdivision 3 of paragraph 10. Contestee admits that the judges of the district courts of Alaska have the power to and do always have since said courts were created appointed the clerks of the courts in their respective divisions, and that all of said laws had been complied with prior to the election of November 5, 1918, and that the law with reference to the appointment of judges of election and the duties of said judges with respect to making returns of election are substantially as set forth in said subdivision and were complied with in respect to the election of November 5, 1918, and that the canvassing board in the Territory of Alaska was and is composed of the governor, surveyor general, and collector of customs.



Contestee denies that the said governor of Alaska, the surveyor general, and collector of customs, so comprising said canvassing board, the said four judges of the District Court of Alaska, and said four clerks of the district courts, and all United States marshals, district attorneys, and all other Federal officials in said Territory were, at all times mentioned therein, Democrats and partisans and supporters of said Sulzer; denies that in each precinct the said Democratic commissioner appointed two Democrats and either a Republican opponent of contestant or a Socialist as the three election judges and clerks of said election in said precincts and thereby the whole election machinery in the conduct of said election of November 5, 1918, in said Territory was in every detail and at every point controlled and managed by the friends and supporters of the said Sulzer, and not otherwise, and that neither said contestant nor his friends and supporters had any part or control in the management of said election, and that if there were any frauds or illegal acts committed in said election they were done and performed by the said appointed friends, partisans, and supporters of Sulzer, for his benefit and not otherwise, and in that behalf contestee alleges:

That the act of Congress entitled "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska," approved May 7, 1906, provides that each incorporated town in the Territory of Alaska shall constitute an election district, and that the city council of each incorporated town shall appoint the judges and clerks of the election, and that in the election of November 5, 1918, the city councils of the incorporated towns in Alaska did appoint the judges and clerks of election, and that the city councils of most of the incorporated towns in the Territory of Alaska were not at said time partisans and supporters of Charles A. Sulzer, but were partisans and supporters of James Wickersham, and that more than one-half of the total vote cast for Delegate to Congress in the election of November 5, 1918, was cast in the incorporated towns.

10. Answering subdivision 4 of said paragraph 10, contestee admits that on November 5, 1918, one William Mahoney was the United States commissioner for the Ketchikan recording district, having been appointed to such position by R. W. Jennings, judge of the District Court for the First Division of Alaska, and that said Mahoney divided the Ketchikan recording district into voting precincts as required by law, but contestee denies that said Mahoney established the Ketchikan voting precincts and alleges that the town of Ketchikan constituted a voting precinct by law, the same being an incorporated town. Contestee admits that said Mahoney was at said time a Democrat and supporter of said Charles A. Sulzer. Contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegation contained in said subdivision with reference to the activities of the said Mahoney on election day, particularly with reference to his having used his automobile in behalf of said Sulzer and in hauling voters to the polls, and therefore denies said allegation. Contestee denies that on said election day the said Mahoney compelled and induced the prostitutes residing in Ketchikan to go to the polls there and vote for Sulzer, and denies that the said Mahoney hauled a big fat negro prostitute to the polls in Ketchikan, and denies that the said Mahoney and Sulzer acting together induced and procured certain other persons, to wit, A. van Mavern, Charles Leask, George A. Nix, and C. Dudler to cast their votes for Charles A. Sulzer, at the said Charcoal Point voting precinct, and denies any knowledge or information as to the truth of the allegations that certain disqualified persons voted for said Charles A. Sulzer and therefore denies said allegations; denies that each of said persons and many others who were not residents and legal voters in said Charcoal Point precinct, were induced and persuaded by said Mahoney and Sulzer, in violation of law, to cast their votes for said Sulzer in said Charcoal Point precinct; denies that the judges of election at Charcoal Point willfully and in violation of the law permitted illegal votes to be cast and deposited them in the ballot box, and counted them in the returns in favor of said Sulzer and that illegal votes cast at Charcoal Point for said Sulzer now form part of the total vote claimed by said Sulzer in the totals compiled by the canvassing board for said Territory; denies knowledge or information as to the allegation that Charles Leask was born in British Columbia, Canada, and was never naturalized and is not a citizen of the United States nor a legal voter in Alaska and therefore denies said allegation; denies that the said George A. Nix cast an illegal ballot at Charcoal Point voting precinct and that the said Charles A. Sulzer acting by and with the said Mahoney, procured the said Nix to so unlawfully

and illegally cast his said vote there for said Sulzer by means of threats and intimidation, and by overawing the said Nix and the election officers by reason of the official position and demands of the said Mahoney and the said Sulzer, the said Mahoney and the said election officers well knowing that the said Nix was an Indian who through fear and ignorance, would obey the commands of those occupying official positions; denies any knowledge or information sufficient to form a belief as to the truth of the allegation that all the votes so cast by the persons named in said subdivision 4 in said Charcoal precinct and others of a similar kind were duly received, counted and credited to Sulzer and included in the returns and total vote so found to be cast for said Sulzer by the canvassing board, upon which the said Sulzer claims the right to the office of Delegate to Congress from Alaska and therefore contestee denies said allegation.

5. Answering subdivision 5 of said paragraph 10, contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said subdivision 5, and, therefore, denies each and every allegation therein contained.

6. Answering subdivision 6 of said paragraph 10, contestee admits, denies, and alleges, as follows:

Contestee admits that the Sulzer and Craig voting precincts are in the Ketchikan election district; that the election officers there were appointed by William Mahoney; that in the Sulzer voting precinct on Prince of Wales Island about 60 miles distant from the town of Ketchikan is located the Halda Indian Reservation, and in the Craig voting precinct is located the Klawock Indian Reservation, and that both of these reservations were created more than two years prior to November, 1918, by Executive orders of the President of the United States, and both of which were at all times, mentioned herein, occupied and inhabited by Indians.

Contestee denies that none of said Indians had voluntarily or otherwise taken up their residence separate and apart from any tribe of Indians and adopted the habits of civilized life; denies that all Indians on such reservations lived there as wards of the Government in tribal relations, and denies that none of them were on November 5, 1918, qualified or legal voters under the laws of the United States, or entitled to cast a ballot or vote at said election, but on the contrary, contestee alleges that all of said Indians were citizens of the United States, that all of them had severed their tribal relations, if any such tribal relations ever existed, that all of them had adopted the habits of civilized life, that none of them were wards of the Government in any sense, but that all were free and independent citizens of the United States, and highly educated and civilized.

Contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said subdivision 6 to the effect that more than 20 of said Indians from the Halda Indian Reservation on election day voted for Sulzer at the Sulzer voting precinct and that more than 20 of said Indians from the Klawock Indian Reservation voted for said Sulzer at the Craig voting precinct, and that said ballots and said votes were counted and credited in favor of said Sulzer in the total vote compiled and credited to him by the final action of the said canvassing board, and, therefore, contestee denies said allegations.

7. Answering subdivision 7 of said paragraph 10, contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said subdivision 7, with reference to the Baranoff voting precinct, and, therefore, denies each and every allegation therein contained.

8. Answering subdivision 8 of said paragraph 10, contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said subdivision, with reference to the Kake voting precinct, and, therefore, denies each and every allegation contained in said subdivision 8.

9. Answering subdivision 9 of said paragraph 10, contestee denies any knowledge or information as to the truth of the allegations therein contained, with reference to the number of votes cast or for whom they were cast at the Douglas No. 2 voting precinct on Douglas Island, and, therefore, denies said allegation.

Contestee specifically denies each and every allegation in said subdivision 9 contained, with reference to votes having been cast at said precinct at the said election of November 5, 1918, by Indians, who were not citizens of the United States and not lawfully entitled to vote at said election. And contestee specifically denies the allegations contained in said subdivision 9, with reference to the acts charged therein to have been performed by James A. Smiser.

United States attorney, and John J. Reagan, assistant United States attorney, and George Johnson, deputy United States marshal, and denies that said officials or any of them for the purpose of subverting and violating the laws pertaining to the elections in the Territory of Alaska, induced certain Indians mentioned in said subdivision to vote at said election for the said Charles A. Sulzer. Contestee alleges that all of said Indians mentioned in said subdivision were citizens of the United States and entitled to vote at said election.

10. Answering subdivision 10 of said paragraph 10, contestee denies that at the Juneau No. 1 voting precinct at Juneau, Alaska, 21 votes were cast by Indians who were not citizens of the United States and not lawfully entitled to vote at the election of November 5, 1918, for Charles A. Sulzer. Contestee denies all of the allegations contained in said subdivision 10, with reference to the acts therein alleged to have been performed by United States attorney, James A. Smiser, and assistant United States attorney, John J. Reagan, and denies that said officials for the purpose of subverting and violating the laws pertaining to the elections in the Territory of Alaska, induced certain Indians or any Indians to vote at Juneau No. 1 election precinct for the said Charles A. Sulzer or at all, and denies that said Indians mentioned in said subdivision were not citizens of the United States and entitled to vote at said election; denies that said officials overawed the judges of election at the said election precinct and persuaded the judges of election, contrary to the personal judgment of the said judges of election to permit the said Indians to so vote at said election.

Contestee alleges that all of the persons and Indians mentioned in said subdivision 10 were citizens of the United States and residents of the Territory of Alaska and entitled to vote at the election of November 5, 1918.

11. Answering subdivision 11 of said paragraph 10, contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained therein with reference to the number of votes cast at the precincts mentioned therein, to wit, Token, Kake, Loring, Tenakee, Windham, Chisana, and Ninilchik, and, therefore, denies said allegations.

Contestee denies that the election at any of said precincts was void, and that the certificate of results and all of the votes cast at said precincts should be eliminated in determining the results of said election held on November 5, 1918.

Contestee denies that any knowledge or information sufficient to form a belief as to the truth of the allegations to the effect that the judges of election at the precincts above mentioned failed to remove either one or both of the stubs or coupons from the ballots cast at said election precincts before depositing the same in the ballot boxes in said precincts, and, therefore, denies said allegation. Contestee denies that if the judges of election fail to so remove said coupons or stubs that by such failure the judges of election at each voting precinct were able to determine how each elector voted, and that any person at any time inspecting said ballots and the duplicate election register could determine for what candidate each elector voted, and denies that if such coupons and stubs were not removed, as alleged, the secrecy of the ballot was destroyed; denies that by reason of the facts alleged in said subdivision 11, if said facts are true, that the said election at the said voting precincts aforementioned should be held null and void, and the results of said election, as shown by the certificates of election, be deducted from the general results of said election. Contestee alleges that there is no law of Congress or of the Territorial Legislature of Alaska which provides that any voter in Alaska shall be disfranchised because of the failure of a judge of election to tear off and detach the stub or coupon attached to the ballot after the voter has marked said ballot and delivered the same to the judge of election, and contestee alleges that no voter can be so deprived of his vote by reason of such failure or omission of a judge of election.

12. Answering subdivision 12 of said paragraph 10, contestee denies any knowledge or information as to the truth of the allegations contained in said subdivision with reference to the failure of the judges of election to count or include in the official results of the election certain ballots cast for contestant at the precincts mentioned in said subdivision, to wit, Juneau No. 3, Candle, Anchorage No. 2, Ellamar, Eyak, Kenai, McGrath, Palmer, Beetles, Brooks, Fort Gibbon, Fairbanks, and Nenana, and, therefore, contestee denies all the allegations in said subdivision 12 contained.

13. Answering subdivision 13 of said paragraph 10, contestee denies each and every allegation therein contained and the whole thereof and alleges that all of the votes cast at the precincts of Granby, Copper Center, and Sourdough

in the third division, and in Richardson, Fairbanks, Chena, Nenana, Hot Springs, Tanana, Fort Gibbon, Loudon, Ruby, Nulato, Eagle, and Circle in the fourth division, and in Haines in the first division, and in other voting precincts in Alaska for Charles A. Sulzer for Delegate to Congress at the election of November 5, 1918, were cast by persons qualified to vote under the laws of Congress and the Territory of Alaska at said election.

14. Answering subdivision 14 of said paragraph 10, contestee admits, denies, and alleges as follows:

Contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said subdivision 14 with reference to the establishment and discontinuance of the Jack Wade Creek voting precinct in the Forty-Mile recording district in the fourth judicial division of Alaska, and, therefore, denies said allegations.

Contestee has no knowledge or information as to the number of qualified voters residing in the Jack Wade Creek voting precinct on November 5, 1918, but denies that there were more than ten qualified voters residing in said precinct, and denies that any of said voters were prevented from voting by reason of the fact, if it was a fact, that no judges were appointed for the holding of an election at said Jack Wade Creek precinct.

Contestee denies any knowledge or information as to the truth of the allegations contained in said subdivision, with reference to the establishment of a voting precinct within the jurisdiction of the commissioner of the forty-mile recording district known as Chicken, and, therefore, denies said allegation, but alleges that the precinct of Chicken existed and was regularly organized prior to the 7th day of November, 1916, and that if the boundaries of Chicken precinct were changed to include Jack Wade Creek precinct, such action would not have rendered it impossible for the residents of Jack Wade Creek to cast their ballots at Chicken, and contestee further alleges that no votes were lost to the said James Wickersham by reason of any of the alleged changes in the establishment of voting precincts in the forty-mile recording district by the said John J. Donovan, United States Commissioner, as set forth in said subdivision 14.

Contestee alleges that in the precinct of Jack Wade Creek at the election of November 7, 1916, there were more voters residing in said precinct than resided in said precinct at the time of the election of November 5, 1918, yet notwithstanding such fact, at the election of November 7, 1916, the said James Wickersham, contestant, received but 8 votes in said Jack Wade Creek precinct out of a total number of 21 votes cast in said Jack Wade Creek precinct, and, therefore, contestee alleges that contestant was not, and could not, have been deprived of 31 votes by the change in the boundaries of the said forty-mile recording district prior to the election of November 5, 1918.

15. Answering subdivision 15 of said paragraph, contestee denies that the said Charles E. Bunnell, judge of the District Court for the Territory of Alaska, Fourth Division, is a violent political partisan of contestee, and makes all of his appointments for commissioners in said fourth division for political reasons; denies that each and every one of his commissioners in said fourth division engages in partisan politics at each biennial election for Delegate to Congress from Alaska, and denies that the entire election machinery in said division is controlled by the said Bunnell through his commissioners for political ends.

Contestee denies that at the time of the election of November 5, 1918, the Jack Wade Creek and Steel Creek precincts had each of them more than 30 voters within their boundaries. Contestee has no knowledge as to whether the Jack Wade Creek and Steel Creek precincts were abolished in the year 1918. Contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, with reference to the redistricting of the recording district of Forty-Mile, and, therefore, denies said allegation, but alleges that if said Forty-Mile precinct was redistricted, it was not for the purpose of preventing, and did not prevent, the electors in said Jack Wade Creek and Steel Creek precincts from voting at the election of November 5, 1918, and denies that the voters of said precincts were wholly disfranchised. Contestee denies that any fraudulent action was committed by the commissioner in the election districts wherein Cripple Creek, Fish Creek, and other voting precincts in the fourth division are situated, and denies that any electors in said precincts were prevented from voting in the election of November 5, 1918, and denies that said contestant lost any votes by reason of any act of the commissioner, with reference



to the said Cripple Creek and Fish Creek and other voting precincts in the fourth division. Contestee alleges that at the time of the election of November 7, 1916, there were more voters residing in Steel Creek precinct than resided in said precinct at the time of the election of November 5, 1918; that notwithstanding said fact, at the election of November 5, 1918, the said James Wickersham, contestant, received but 7 votes out of a total of 10 cast at said Steel Creek precinct, and the said James Wickersham could not, and did not, lose 30 votes or any number of votes by reason of any change in the boundaries of Forty-Mile recording district.

16. Answering subdivision 16 of said paragraph 10, contestee admits that in the precinct of Copper Center there were 10 votes cast at the election of November 5, 1918, for the said Charles A. Sulzer, but denies all the allegations contained in said subdivision with reference to the acts of Lewis T. Erwin, United States marshal for the fourth division; Thomas J. Donahoe, Democratic national committeeman for Alaska, and Charles A. Sulzer, and with reference to said persons having threatened the residents of Copper Center that unless they endeavored to procure and did procure all of the electors at Copper Center to cast their ballots for said Charles A. Sulzer for the office of Delegate from Alaska at the election held in said precinct on November 5, 1918, the said United States post office would be moved from Copper Center, to the great injury of the community, and contestee denies that any such threats were made to the said R. Blix, or any other person, and denies that said 10 votes cast for Charles A. Sulzer in said Copper Center precinct were illegally obtained or obtained by threats. Contestee alleges that all of said votes were cast by the voters of Copper Center as their free and independent act and in accordance with what they believed to be for the best interests of the Territory of Alaska and not otherwise.

17. Answering subdivision 17 of said paragraph 10, contestee admits that the certificate of the result of the election held at the Unalaska election precinct in the Aleutian Island recording district in the third division of the Territory of Alaska showed that James Wickersham received 17 votes and Charles A. Sulzer received 54 votes. Contestee admits that said certificate was received by the canvassing board for the Territory as true and correct.

Contestee denies that the election held at said precinct at Unalaska was null and void, and denies that the certificate of result of said election should be canceled, and that the votes therein alleged to have been received by each candidate should be deducted from the total vote. Contestee denies that at said election the judges of election inaugurated and maintained a system whereby they and all persons present at the polls were enabled to determine how each elector voted and for what particular candidate each elector cast his ballot by then and there preparing one separate and distinct form of ballot for each of the candidates for Delegate from Alaska and requiring then and there each elector when appearing at the polling place for the purpose of exercising his rights as an elector to announce which ballot he desired to vote, and thereupon and after such announcements had been made by the elector the judges would deliver to such elector the ballot for the candidate which he openly announced his intention to vote for, thus and thereby destroying utterly the secrecy of the ballot and making the election at that precinct in substance and effect a viva voce vote. Contestee alleges that if no official ballots were used at said election in said precinct it was because no official ballots were received by the election judges prior to the date of election, and contestee further alleges that the act of the Legislature of the Territory of Alaska, approved April 27, 1915, provides, as follows:

"Sec. 21. That in any precinct where the election has been legally called and no official ballots have been received, the voters are permitted to write or print their ballots, but the judges of election shall in this event certify to the facts which prevented the use of the official ballots, which certificate must accompany and be made a part of the election return."

Contestee is informed and believes, and, therefore, alleges that no official ballots were received in the Unalaska voting precinct, and that the voters were permitted to write or print their ballots, as in the above section provided, and that the certificate of the judges of election certifying to such facts accompanied the returns from said precinct of Unalaska.

18. Answering subdivision 18 of said paragraph 10, contestee admits that at the Naknek election precinct the certificate of result of the election of November 5, 1918, showed that 10 votes were cast for Charles A. Sulzer and no votes were cast for any other candidate, that said certificate of result was ac-



cepted as true and correct by the Territorial canvassing board, that no official ballots were used at the said Naknek precinct, but denies each and every other allegation in said subdivision contained, and alleges that the election at said precinct was conducted according to the laws of Congress and the Territory of Alaska.

19. Answering subdivision 19 of said paragraph 10, contestee admits that at the Cache Creek voting precinct in the third judicial division of the Territory of Alaska, Charles A. Sulzer received 23 votes and James Wickersham received 2 votes at the November 5, 1918, election, but contestee denies any knowledge or information sufficient to form a belief as to the truth of the allegations contained in said subdivision with reference to the polls having been opened at said Cache Creek precinct at the hour of 4 o'clock in the morning, and as to the 23 votes which were cast for Charles A. Sulzer having been cast between the hours of 4 o'clock and 8 o'clock in the morning, and, therefore, contestee denies all of said allegations.

Contestee alleges that if the polls at Cache Creek were, as alleged by contestant, opened at 4 o'clock in the morning, and if votes were cast for the said Charles A. Sulzer between the hours of 4 a. m. and 8 a. m., that the said James Wickersham, contestant, was not thereby prejudiced, and that the vote cast for Charles A. Sulzer in said precinct should not be deducted and eliminated from the general result.

20. Answering subdivision 20 of said paragraph 10, contestee admits that at the election at the Sourdough voting precinct of the third judicial division on the 5th day of November, 1912, 12 votes were cast, of which 5 votes were cast for contestant, James Wickersham, and 7 for Charles A. Sulzer, which said votes were credited to each of said candidates by the Territorial canvassing board. Contestee denies that the aforementioned number of votes cast for contestee at said precinct should be wholly eliminated and the number of votes cast for contestant at said precinct should be increased by 15 votes, and denies that in the immediate neighborhood of the said Sourdough road house there were not less than 15 legally qualified electors who were friends and political supporters of this contestant, and who would have voted for contestant at the election of November 5, 1918, had they been afforded an opportunity to do so, and denies that the changing of the polling place from the Sourdough road house to the Gulkana road house deprived the said contestant of 15 votes or any votes, and denies that the said William O'Connor, United States commissioner, changed the polling place from the Sourdough road house to the Gulkana road house for the purpose of depriving contestant of any votes,

Contestee alleges that at the election of November 7, 1916, several thousand more votes were cast than were cast at the election of November 5, 1918, but that at the precinct of Sourdough in the election of November 7, 1916, contestant, James Wickersham, received but 5 votes, which is the same number he received at the election of November 5, 1918; that at the time of the election of November 5, 1918, a large proportion of the voting population of Alaska was outside of the district of Alaska engaged in various forms of war service, and that there was a less number of legal voters in the Sourdough voting precinct on November 5, 1918, than on November 7, 1916, yet the said James Wickersham received the same number of votes at each election and was not deprived of any votes whatever by reason of the change of the polling place.

21. Answering subdivision 21 of said paragraph 10, contestee admits that at the election of November 5, 1918, Charles A. Sulzer received 11 votes at the Kuskulana No. 1 polling place and that James Wickersham received 1 vote at said polling place, and that at the Kuskulana No. 2 polling place Charles A. Sulzer received 4 votes and James Wickersham received 2 votes, and that all of said votes cast at said precincts were so credited to the said Sulzer and to the said Wickersham.

Contestee denies each and every other allegation in said subdivision 21 contained.

22. Answering subdivision 22 of said paragraph 10, contestee denies each and every allegation therein contained, except as hereinafter admitted.

Contestee admits that the Dillingham election district lies on Bristol Bay on both sides of the Nushagak River in the western part of the Territory of Alaska, and that L. H. French was the United States commissioner in said Dillingham recording and election district on November 5, 1918.

23. Answering subdivision 23 of said paragraph 10, contestee denies each and every allegation therein contained, and denies that contestant was deprived of more than 50 votes or any votes by the errors and mistakes of various election

officers, and denies that the canvass of the returns of said election of November 5, 1918, was conducted as in said subdivision alleged or in a manner prejudicial to the said contestant.

24. Answering subdivision 24 of said paragraph 10, contestee denies each and every allegation therein contained.

25. Answering subdivision 25 of said paragraph 10, contestee admits, denies, and alleges as follows:

Contestee admits that Alaska is almost as large as the United States east of the Mississippi River; that the judicial divisions are each larger than the State of New York; that many of the election districts are larger than many of the States in the Union; that Juneau, Valdez, Fairbanks, and Nome are among the principal places for the conduct of business in relation to elections; that these points are from 400 to 500 miles apart, or more; contestee denies each and every other allegation in said subdivision contained and the whole thereof, and specifically denies the following allegation:

"That by reason of the entire election machinery being thus under the control of contestee's friends, they are able to and do shield and protect all persons who perpetrate election frauds in their interest from exposure or prosecution, and crimes against the elective franchise in the interest of contestee are perpetrated by officials from the governor and Delegate down the line, without fear of prosecution but with approval and political preferment; probably nowhere in the United States is there so much official election fraud as in the interior Alaska precincts, where it is conceived, indulged in, and protected by the officials and their deputies, with the knowledge that it can not be punished or prevented by those injured thereby; it is even worse than in the Ketchikan election district, where the most glaring instances are herein set forth."

### PART III.

Further answering contestant's specification of grounds of contest and for an affirmative defense thereto and specification of grounds upon which contestee rests the vitality of his election, contestee alleges:

#### I.

That on the 5th day of November, 1918, Charles A. Sulzer was a native-born citizen of the United States, and had been upon said date and for 16 years immediately prior thereto an inhabitant and qualified voter in the Territory of Alaska, and was on said date not less than 25 years of age.

That at the election held in the Territory of Alaska for the purpose of electing a Delegate from Alaska in the House of Representatives on November 5, 1918, Charles A. Sulzer received the greatest number of votes cast for any person or candidate for the office of Delegate from Alaska, and thereby was the duly elected Delegate to Congress from said Territory of Alaska, and was thereupon and thereafter entitled under the laws of the United States to a seat as Delegate from Alaska in the House of Representatives in the Congress of the United States in the Sixty-sixth Congress.

#### II.

That the said Charles A. Sulzer died on the 15th day of April, 1919, in the Territory of Alaska; that by reason of his death a vacancy occurred in the office of Delegate from Alaska in the House of Representatives of the United States.

#### III.

That on the 3d day of June, 1919, George B. Grigsby, the contestee herein, was a citizen of the United States and an inhabitant of the Territory of Alaska, residing at Juneau, Alaska, and of not less than 25 years of age, and has been a resident and qualified voter of the Territory of Alaska for 17 years immediately prior to said 3d day of June, 1919.

#### IV.

That on said 3d day of June, 1919, a special election was held in the Territory of Alaska, under the laws of the United States and of the Territory of Alaska, to fill the vacancy in the office of Delegate from Alaska in the House of Repre-

sentatives, and at said special election George B. Grigsby, contestee, received the greatest number of legal votes cast for any person or candidate for said office, and thereby was and now is the duly qualified and elected Delegate from Alaska in the House of Representatives and is entitled to his seat therein in the Sixty-sixth Congress, now in session. Said contestee further states that his election to the said office of Delegate from Alaska was duly certified by the Canvassing Board of the Territory of Alaska after duly canvassing the vote cast at said election in accordance with law, and that he now holds his seat in the House of Representatives of the Congress of the United States as said Delegate from Alaska.

## V.

Contestee alleges that at the election held in the Territory of Alaska on the 5th day of November, 1918, for the purpose of electing a Delegate from Alaska in the House of Representatives, on the face of the returns as returned by the judges of election from the various elections precincts in the Territory of Alaska, and as canvassed by the canvassing board for the Territory of Alaska, duly authorized by law to canvass and compile said returns, the following vote was cast for the respective candidates at said election:

	Votes.
For Charles A. Sulzer.....	4,487
For James Wickersham.....	4,454
For Francis Connelly.....	339

That thereafter, on or about the 17th day of April, 1919, the said Charles A. Sulzer, having received a plurality of 33 votes, was duly declared by said canvassing board to have been elected to the office of Delegate from Alaska in the House of Representatives, and a certificate of election was thereby, and according to law, issued to the said Charles A. Sulzer and filed with the Clerk of the House of Representatives.

## VI.

Contestee is informed and believes, and therefore alleges, that at said election of November 5, 1918, in the precinct of Ketchikan, in the Territory of Alaska, the following-named persons voted for contestant, James Wickersham, for Delegate from Alaska, to wit, J. E. Sayles, Mrs. J. E. Sayles, Mrs. Ida Hannan, and W. H. Hannan; that the aforesaid persons on said November 5, 1918, were not residents of the Territory of Alaska, and had not been residents or inhabitants of the Territory of Alaska for one year prior to said election and were not qualified to vote at said election; that the votes cast by the aforementioned four persons were credited to the said James Wickersham by the said canvassing board in the canvass and compilation of the returns of said election and included in the total vote credited to the said James Wickersham in said canvass, and should be subtracted from said total vote so credited to him by said canvassing board.

That in said precinct of Ketchikan the following persons voted for the said James Wickersham at said election for Delegate from Alaska, to wit, John Goodart, J. Shaver, A. Holmberg, Henry Shafer, H. Mather, P. Mather, H. Ridley, George Booth, Arthur Mathison, George Keeghan, George Johnson, Ben Ridley, Matt Fawcett, L. Hudson, James Starr, Ed. James, Mrs. Frank Fiskon, Philip McKay, James Shields, George Starr, Joe John, Ed. Ridley, Andy Moses, George James, Robert Young, and 40 other persons whose names are to contestee unknown; that the votes of all of said persons were credited to the said James Wickersham in the canvass and compilation of the votes cast at said election and included in the total vote credited to him by said canvassing board; that the said aforementioned persons and the said 40 other persons whose names are to contestee unknown, were not on said November 5, 1918, citizens of the United States and were not qualified and entitled to vote at said election, and all of said votes, together with the votes of the 4 persons named in the preceding paragraph, were fraudulent and void and should be subtracted from said total vote so credited to the said James Wickersham by said canvassing board.

That at said election in said precinct of Ketchikan one Nellie L. Thomas cast her vote for the said James Wickersham at said election; that on said 5th day of November, 1918, the said Nellie L. Thomas was less than 21 years of age, and was not entitled and qualified to vote at said election and her said vote was void; that the same was credited to the said James Wickersham in the final canvass and compilation of the returns of said election and should be subtracted from said total vote credited to the said Wickersham by said

canvassing board; that at said precinct of Ketchikan a large number of Indians, whose names to contestee are unknown, to wit, 30 or more, cast their votes at said election for the said James Wickersham; that said Indians on said November 5, 1918, were not citizens of the United States; that a large number of said Indians were not born in the United States and have never been naturalized therein; that the remainder of said Indians are and were on the 5th day of November, 1918, uncivilized and had not on said date abandoned their tribal relations nor adopted the habits of civilized life; that all of the votes so cast by said Indians were credited to the said James Wickersham by said canvassing board and included in the total vote credited to him by said canvassing board in their canvass and compilation of the returns of said election and all of said votes should be subtracted from said total vote so credited to the said James Wickersham.

#### VII.

Contestee is informed and believes, and therefore alleges, that at the precinct of Wrangell, in the first division of the Territory of Alaska, at said Delegate election of November 5, 1918, 12 or more persons whose names are to contestee unknown cast their votes for the said James Wickersham for Delegate from Alaska; that said persons were not on said November 5, 1918, citizens of the United States and were not qualified voters under the laws of the United States nor entitled to vote at said election; that all of their said votes were credited to the said Wickersham and included in the total vote credited to him by said canvassing board in the final canvass and compilation of the returns of said election; that all of said votes were fraudulent and void, and should be subtracted and deducted from the said total vote so credited to the said James Wickersham by said canvassing board.

#### VIII.

That in the precinct of St. Michael, No. 2, or Unalakleet, in the second division of the Territory of Alaska, a large number of Indians, of the number of 25 or more, whose names are to contestee unknown, cast their votes for the said James Wickersham, contestant, for Delegate from Alaska, at the said Delegate election of November 5, 1918; that said Indians were on said date not citizens of the United States, but were uncivilized and living in tribal relations and were not qualified voters in the Territory of Alaska under the laws of the United States; that said votes cast for said James Wickersham were credited to the said James Wickersham by said canvassing board and included in the total vote credited to him by said canvassing board in their canvass and compilation of the returns of said election, and were fraudulent and void, and all of said votes should be subtracted and deducted from said total vote so credited to the said James Wickersham by said canvassing board.

#### IX.

That at Anchorage precinct No. 2 the polling place was changed without notice by the election judges on the day of election of November 5, 1918, and that a large number of persons were thereby uninformed of the place where the election in said precinct was to be conducted; that the election in said precinct was held in a different place than that described in the order and notice of election theretofore duly made and posted by the officials whose duty it was to issue the same; that the election in said Anchorage precinct No. 2 was, therefore, by reason of the aforesaid facts fraudulent and void; that in said Anchorage precinct No. 2 the said James Wickersham received 261 votes and the said Charles A. Sulzer received 117 votes; said votes were credited to the said Wickersham and the said Sulzer in the canvass and compilation of the returns of said election, and included in the total vote credited to each of said persons for the office of Delegate to Congress; that there should be deducted and subtracted from the total vote credited to the said Wickersham, as aforesaid, 261 votes, and from the said Sulzer 117 votes, being the number of votes cast for each of said candidates at said election.

Contestee is informed and believes, and therefore alleges, that in the precinct of Anchorage No. 2, in the third division of the Territory of Alaska, at the said election of November 5, 1918, the following-named persons and not less than 30 others cast their votes for the said contestant, James Wickersham, at said election for Delegate from Alaska, to wit, Robert B. Lathrop, Charles Hegsted,



Mrs. C. P. Peterson, J. O. Johnston, Henry Baxter, Laure E. Baxter, Otto Gransfors, Mrs. M. Divigak, T. J. Dodds, Fred M. Polly, Sam Cash, Carl Wickman, J. F. Adkins, Blanche Adkins, Frank Cooper, William Murray, Dan Horrigan, Thomas Kennedy, Blanch Dean, Mrs. M. Polly; that the aforesaid persons on said November 5, 1918, were not citizens of the United States and were not qualified and legal voters at said election and their said votes were fraudulent and void; that all of said votes were credited to the said James Wickersham by the said canvassing board and included in the total vote credited to him in the canvass and compilation of the returns of said election by said canvassing board, and should be subtracted and deducted from said total vote credited to the said James Wickersham.

That in said Anchorage precinct No. 2, the following persons voted at said election for the James Wickersham for Delegate from Alaska, to wit, Lillian Hettle, L. Harper, C. W. Hitchcock, H. Barenberg, John C. Dougherty, F. W. Barr, Charles Wolf, W. Engberg, A. O. Wells, W. A. Black, Mrs. R. L. Elkins, and not less than 20 others; that on said November 5, 1918, the aforesaid persons were not residents of Anchorage precinct No. 2, nor of the town of Anchorage, Alaska, and had not been residents of said precinct of Anchorage No. 2 for 30 days prior to said election, and said persons were not legal and qualified voters nor entitled to vote in said Anchorage precinct No. 2 at said election nor were said persons legal and qualified voters in the Territory of Alaska under the laws of the United States; that all of said voters cast for the said James Wickersham were credited to him by the said canvassing board in the total vote credited to said Wickersham in the canvass and compilation of the returns of said election by said canvassing board; that said voters were fraudulent and void and should be deducted from said total vote to the said James Wickersham.

That in the precincts of Anchorage No. 1 and No. 2 in the Territory of Alaska, third division, at the said election of November 5, 1918, the partisan supporters of the said Wickersham employed and used several automobiles for the purpose of carrying the voters to the polls in said precincts and for the purpose of influencing said persons to vote for the said James Wickersham at said election and by the use of said automobiles, as aforesaid, and by carrying said voters to the said polls, the said partisan supporters of the said Wickersham did corruptly influence a large number of persons, who otherwise would not have voted at said election, to vote for the said Wickersham for Delegate to Congress; that contestee is not acquainted with the names of the persons so carried to the polls and influenced to vote for the said James Wickersham for Delegate to Congress, but alleges that there were at least 50 persons so influenced.

#### X.

Contestee is informed and believes, and, therefore alleges that in the precinct of Cordova, in the third division of the Territory of Alaska in said election of November 5, 1918, the following persons cast their votes for the said James Wickersham, contestant, for delegate from Alaska, to wit, J. A. Cohn, Sarah Cohn, Anna Bartell, Park Stump, Mrs. Park Stump, Arthur Pinkus, Gus Cozakas, William Gerrie, Barbara Keeting, Mrs. W. H. Graves, and 15 other persons whose names to contestee are unknown; that on said 5th day of November, 1918, the aforesaid persons were none of them citizens of the United States and were not qualified voters in the Territory of Alaska under the laws of the United States; that the votes of all of said persons were credited to the said James Wickersham by the canvassing board and included in the total credited to him by said canvassing board in their final canvass and compilation of the returns of said election; that all of said votes were fraudulent and void, and should be deducted from said total vote so credited to said Wickersham by said canvassing board.

That in said precinct of Cordova at said election, the following persons cast their votes for the said Wickersham, contestant, for Delegate to Congress, to wit, Nellie Crawford, L. M. Saby, Frank Miller, Roy Walker, Fred Schramm, J. H. Ross, and 12 other persons, whose names to contestee are unknown, that on said 5th day of November, 1918, said persons were not inhabitants or residents of the Territory of Alaska, and had not been residents nor inhabitants of the Territory of Alaska for one year immediately prior to said election and were not legal voters in said Territory on said date; that all of their said votes were credited to the said James Wickersham by the said canvassing board and



included in the total vote credited to him by said canvassing board in their final canvass and compilation of the returns of said election; that all of said votes were fraudulent and void and should be deducted from said total vote so credited to the said James Wickersham.

That in said precinct of Cordova on said November 5, 1918, the following-named persons cast their votes for the said James Wickersham for Delegate to Congress, to wit, Theodore Stensland, William Zachariah, Mrs. William Zachariah, Mrs. A. L. Spencer, Fred Van Camp, and 10 other persons whose names are to the contestee unknown; that none of said persons were on said 5th day of November, 1918, residents of the precinct of Cordova or of the third division of Alaska, and had not been on said date in said division of Alaska or precinct of Cordova for 30 days prior to said election nor for more than 3 days prior thereto, but all of them were residents of the fourth division of the Territory of Alaska; that none of said persons were legal voters in the precinct of Cordova on said election day; that all of the votes cast by said persons for the said Wickersham were credited to him by said canvassing board and included in the total vote credited to him by said canvassing board in their final canvass and compilation of the returns of said election; that all of said votes were fraudulent and void and should be deducted from the total vote so credited to the said Wickersham, contestant.

That in said precinct of Cordova at said election of November 5, 1918, the following persons cast their votes who were not residents of the precinct of Cordova and had not been residents of said precinct for 30 days immediately prior to said election, to wit, C. A. Peterson, Charles Christensen, Ed. Munson, J. Swalley, Ed. Lindberg, Andrew Clenenger, C. M. Johns, and 10 others whose names are unknown to contestee; that all of said votes so cast for said Wickersham were credited to him in the total vote credited to said Wickersham by the canvassing board in their final canvass and compilation of the returns of said election; that said votes were all fraudulent and void, and should be deducted and subtracted from said total vote so credited to the said Wickersham, contestant.

#### XI.

Contestee is informed and believes, and therefore alleges, that in the precinct of McCarthy, in the third division of the Territory of Alaska, at said election of November 5, 1918, 23 persons whose names are to contestee unknown cast their votes for James Wickersham, contestant, for Delegate to Congress; that said 23 persons on said date were none of them qualified and legal voters in the Territory of Alaska nor in the precinct of McCarthy; that said persons had not on said November 5, 1918, been residents or inhabitants of the Territory of Alaska for one year immediately prior to said election and had not been on said date residents of the precinct of McCarthy for 30 days immediately prior to said election, and a large number of said 23 persons, if not all, were not on said November 5, 1918, citizens of the United States; that all of said votes of said persons so cast for the said Wickersham were credited to him in the total vote to said Wickersham by said canvassing board in the final canvass and compilation of the returns of said election by said canvassing board; that all of said votes were fraudulent and void and should be deducted and subtracted from the total vote so credited to the said Wickersham, contestant.

#### XII.

That in the precinct of Afognak, in the third division of the Territory of Alaska, at the election of November 5, 1918, more than 20 Indians, whose names are to contestee unknown, cast their votes for the said James Wickersham for Delegate from Alaska; that said Indians were not on said November 5, 1918, citizens of the United States and were not legal voters under the laws of the United States in the Territory of Alaska, but were on said date uncivilized Indians and living in tribal relations; that all of the votes so cast by said Indians for the said Wickersham were credited to him by the said canvassing board and included in the total vote credited to him by said canvassing board in their final canvass and compilation of the returns of said election; that said votes were fraudulent and void and should be deducted and subtracted from the total vote so credited to the said Wickersham, contestant.

That in said precinct of Afognak 10 persons, whose names are to contestee unknown, cast their votes for the said Wickersham for Delegate from Alaska;

that said 10 persons were not residents of the Territory of Alaska for the period of one year immediately prior to said election nor residents of the precinct of Afognak for 30 days immediately prior to said election and were not legal voters in the Territory of Alaska nor entitled to vote at said election; that the votes of all of the said persons were credited to the said James Wickersham by the said canvassing board in the total vote credited to him in their final canvass and compilation of the returns of said election; that said votes were fraudulent and void and should be deducted and subtracted from the total vote so credited to the said Wickersham, contestant.

That the precinct of Afognak, in the third division of the Territory of Alaska, is on an Indian reservation; that said reservation was created prior to the election of November 5, 1918, by an Executive order of the President of the United States, and was on said November 5, 1918, occupied and inhabited by Indians; that said Indians were uncivilized and had not severed their tribal relations but lived on said reservation as wards of the Government in tribal relations, and none of them were on November 5, 1918, entitled to vote at the said Delegate election; that none of the persons living at Afognak on said November 5, 1918, were entitled to vote at said election; that the election conducted at said precinct of Afognak was illegal and void by reason of said precinct of Afognak being in and a part of said Indian reservation, and the entire vote cast at said precinct should be deducted and subtracted from the total vote credited from said precinct to the respective candidates for Delegate to Congress at said election in the proportion in which said vote was cast.

### XIII.

Contestee is informed and believes, and therefore alleges that in the precinct of Seldovia, in the third division of the Territory of Alaska, at said election of November 5, 1918, 30 persons, whose names to contestee are unknown, cast their votes for the said James Wickersham for Delegate from Alaska; that all of said persons were on said date uncivilized Indians living in tribal relations and were not citizens of the United States nor entitled or qualified to vote at said election; that the votes of all of said persons were credited to said James Wickersham by the said canvassing board in the total vote credited to him in their final canvass and compilation of the returns of said election; that said votes were fraudulent and void and should be deducted and subtracted from the total vote so credited to the said James Wickersham, contestant.

That in said precinct of Seldovia, in said third division of the Territory of Alaska, more than 30 persons, whose names to contestee are unknown, voted for said James Wickersham for Delegate to Congress on November 5, 1918; that none of said persons were on November 5, 1918, citizens of the United States nor legal voters at said precinct of Seldovia; that all of said votes were credited to the said James Wickersham by the canvassing board in the total vote credited to him by said vote in their final canvass and compilation of the returns of said election; that said votes were fraudulent and void and should be deducted and subtracted from the total vote of said Wickersham, contestant.

Contestee is informed and believes, and therefore alleges that in said precinct of Seldovia gross election frauds and irregularities were practiced by the followers and supporters of the said James Wickersham in influencing ignorant and illiterate Indians and other persons to cast their votes for said Wickersham for Delegate to Congress; that a great number of said Indians were unable to read and write and had no knowledge of the names of the candidates for the respective offices to be voted for nor any choice of candidates and said Indians would not have voted at said election, except for the fact that the said Wickersham's supporters and workers induced them to go to the polls and provided them with sample ballots previously marked by said Wickersham supporters with a cross in the square opposite the name of the said Wickersham and other persons for whom the said Wickersham supporters desired said Indians to vote; that said sample ballots were furnished to said Indians and taken with them into the poll booths and used by them as a copy from which to prepare their ballots; that said Indians were so influenced to vote for the said Wickersham by means of gifts of food and other means unknown to this contestee, but contestee alleges wholesale frauds and irregularities were committed at the election at Seldovia to such an extent that the whole number of votes cast in said precinct should be thrown out and deducted from the total vote cast for all candidates at said election of November 5, 1918.

## XIV.

Contestee is informed, and believes, and therefore alleges that at the precinct of Fairbanks, in the fourth division of the Territory of Alaska, 30 persons, whose names are to contestee unknown, voted for the said James Wickersham; that none of said persons were on said November 5, 1918, residents of Fairbanks, Alaska, nor had been such residents for the period of 30 days immediately prior to said election as required by law, and were not on said date duly qualified and legal voters of the precinct of Fairbanks in the Territory of Alaska; that the said 30 votes so cast for the said Wickersham were credited to him in the total vote by said canvassing board in their canvass and compilation of the returns of said election; that said votes were fraudulent and void and should be deducted and subtracted from said total vote so credited to the said Wickersham.

## XV.

That in the precinct of Nenana, in the fourth division of the Territory of Alaska, more than 10 persons, whose names are to contestee unknown, voted for the said Wickersham for Delegate to Congress; that said persons were not on the 5th day of November, 1918, citizens of the United States, nor entitled to vote at said election; that said 10 votes were credited to the said Wickersham in the total included and credited to him by said canvassing board in their final canvass and compilation of the returns of said election; said votes were fraudulent and void and should be deducted and subtracted from said total vote so credited to the said Wickersham.

## XVI.

Contestee is informed and believes, and therefore alleges that in a great many precincts in Alaska it was the custom for legal voters in the Territory of Alaska to vote at the election of November 5, 1918, for the office of Delegate to Congress in whatever precinct of the division in which said voters resided they happened to be on election day; that this custom grew out of the fact that the Legislature of Alaska of 1915 passed an act providing that—

“Any person of the age of 21 years or more who is a citizen of the United States, who has lived in the Territory of Alaska one year and in the judicial division in which he or she offers to cast his or her vote 30 days immediately preceding such election shall be entitled to vote at all elections held there.  
\* \* \*” (Act Apr. 27, 1915.)

That the above provision attempting to change the qualifications of voters in Alaska was and is in conflict with the laws of the Congress of the United States, fixing the qualifications of voters in Alaska for the office of Delegate to Congress in that in accordance with the said laws of Congress the voter is required to live in the precinct in which he offers to vote for 30 days immediately prior to the date of election; that notwithstanding this conflict with the laws of Congress, the above provision of the act of the Legislature for the Territory of Alaska, 1915, was generally followed throughout the entire Territory of Alaska at both the Delegate election of November 7, 1916, and of November 5, 1918; that contestee is informed and believes, and therefore alleges that at the election of November 5, 1918, in the Territory of Alaska, more than 100 persons, whose names are to contestee unknown, voted for James Wickersham for Delegate to Congress at said election in the various election precincts of the Territory, which said persons at the time of so voting for the said James Wickersham were not then and there residents of the precinct in which they so voted; that all of said votes so cast for the said James Wickersham were credited to him by the Territorial canvassing board in their final canvass and compilation of the returns of said election; that said votes were void and should be deducted from said total votes so credited to the said James Wickersham by said canvassing board; that the said 100 voters herein in this paragraph referred to are in addition to and other than those persons elsewhere in this answer named or mentioned as having voted for said James Wickersham for Delegate to Congress in precincts in which they were not entitled to vote under the laws of the United States pertaining to elections in the Territory of Alaska.

## XVII.

That at several of the election precincts in the Territory of Alaska at the said election of November 5, 1918, 20 or more persons lawfully and legally voted for

Charles A. Sulzer for Delegate to Congress whose ballots were not credited to the said Charles A. Sulzer by the election judges at said precincts nor by the Territorial canvassing board in canvassing and compiling the returns of said election; that said ballots of said persons so lawfully and legally voting for the said Charles A. Sulzer for Delegate to Congress should be added to the total vote credited to the said Charles A. Sulzer by the Territorial canvassing board in their canvass and compilation of the returns of said election; that the names of the aforesaid persons and the precincts wherein their ballots were cast are not known to this contestee.

#### XVIII.

Contestee is informed and believes, and therefore alleges that at the said election for Delegate to Congress on November 5, 1918, in various precincts of the Territory of Alaska, the names of which are at this time unknown to contestee, a large number of persons whose names are unknown to contestee cast their votes for James Wickersham for Delegate to Congress, which votes were received and counted and are included in the total number of votes canvassed and compiled by said canvassing board and credited to the said Wickersham by said canvassing board; that each of said persons was an enlisted soldier in the Army of the United States and not a resident of Alaska prior to his arrival in Alaska as a member of such Regular Army, and who came into Alaska and has since arrived in the Territory, and was on November 5, 1918, under the orders of the superior officers and was so under command when he cast his said ballot on November 5, 1918; that contestee believes that if any of said persons above referred to resided in Alaska for the period of one year prior to said election and in the precinct in which he voted for 30 days prior to said election and if such residence was accompanied with the intention on the part of said soldier to reside permanently in the Territory of Alaska, that such soldier thereby became a legal voter and was entitled to vote at said election of November 5, 1918, for whomsoever he pleased for the office of Delegate to Congress. But contestee alleges that if the House of Representatives in the determination of this contest should hold that such soldier above mentioned and referred to under the circumstances aforesaid was not a legal voter in the Territory of Alaska and could not acquire residence in said Territory under the aforesaid circumstances, then and in that event said soldier was not a legal voter at said election and his vote should be deducted from the total vote credited to the said James Wickersham by the Territorial canvassing board in their final canvass and compilation of the returns of said election.

#### XIX.

Contestee is informed and believes, and therefore alleges, that in several precincts in the Territory of Alaska, at the election of November 5, 1918, a large number of native Indians and a large number of Indians who were not born in the Territory of Alaska nor elsewhere in the United States, cast their votes for James Wickersham for Delegate to Congress at said election; that the said native Indians who so voted for the said James Wickersham at said election on said November 5, 1918, were uncivilized Indians and have not severed their tribal relations and were not under the laws of the United States, nor citizens of the United States or entitled to vote at said election. The contestee is informed and believes, and therefore alleges, that more than 100 native Indians besides those elsewhere in this answer mentioned and referred to, who were not citizens of the United States and who were uncivilized and living in tribal nations, so voted for the said James Wickersham at said election, and that their said votes were credited to him by the Territorial canvassing board in their final canvass and compilation of the returns of said election; that all of said votes so credited to the said James Wickersham were void and should be deducted from the total vote so credited to him by said canvassing board.

That more than 50 Indians who were not born in the United States nor in the Territory of Alaska and who were not on November 5, 1918, naturalized citizens of the United States, voted for the said James Wickersham for Delegate to Congress at said election on November 5, 1918; that their said votes were credited to the said James Wickersham and the total vote credited to him by the said canvassing board in their final canvass and compilation of the returns of said election; that said votes were void and should be de-



ducted from said total votes so credited to the said James Wickersham by said canvassing board.

Contestee is informed and believes, and therefore alleges, that on November 5, 1918, the date of the said election in the Territory of Alaska for Delegate from Alaska, there were residing in the Territory of Alaska approximately 2,000 aliens not citizens of the United States, and not qualified to vote in the Territory of Alaska for the office of Delegate to Congress; that at said election more than 100 of said alien persons, in addition to those heretofore mentioned and referred to in this answer, and whose names are to contestee unknown, voted for the said James Wickersham for Delegate to Congress from Alaska; that their said votes were credited to the said James Wickersham in the total vote credited to him by the canvassing board in their final canvass and compilation of the returns of said election; that said votes were fraudulent and void and should be deducted from said total votes so credited to the said James Wickersham by said canvassing board.

The contestee is informed and believes, and therefore alleges, that at the precinct of Bethel, in the second division of the Territory of Alaska, at the said election of November 5, 1918, 28 persons voted for the said James Wickersham for Delegate to Congress and 3 persons voted for the said Charles A. Sulzer for Delegate to Congress, and said votes were credited to the said James Wickersham and to the said Charles A. Sulzer by the Territorial canvassing board in the total vote credited to said candidates, respectively, by said vote in their final canvass and compilation of the returns of said election; that all of the votes so cast at the said precinct of Bethel were void in this that the precinct of Bethel was not a regularly organized election precinct in the Territory of Alaska on the date of said election; that prior to said election of November 5, 1918, there was no such election precinct in the Territory of Alaska as the precinct of Bethel; that the laws of the United States pertaining to elections in the Territory of Alaska require, among other things, that each recording district shall be divided into election precincts by the United States commissioner of said recording districts 60 days prior to the date of said election for Delegate to Congress; that the said precinct of Bethel was attempted to be established by the United States commissioner of the Wade-Hampton recording district on a date not 60 days prior to the date of election, but many days less than 60 days prior thereto, and was therefore irregularly and illegally established and did not constitute an election precinct under the laws of the United States; that the total vote cast in said precinct for the said Charles A. Sulzer and the said James Wickersham should be deducted from the total vote credited to each of said candidates by the said canvassing board in their final canvass and compilation of the returns of said election.

## XX.

Contestee is informed and believes, and therefore alleges, that a great number of persons, to wit, at least 50, were refused permission to vote on November 5, 1918, by the election officers in various precincts of the Territory of Alaska; that all of said persons, whose names are to contestee unknown, were on said election day qualified electors in the Territory of Alaska and were entitled to vote at said election and would each of them have voted for Charles A. Sulzer for Delegate to Congress from Alaska if permitted to vote; that said 50 votes should be added to the total vote credited to the said Charles A. Sulzer by the Territorial canvassing board in the final canvass and compilation of the returns of said election; that at said election a large number of persons, whose names are to contestee unknown, were permitted to vote and did vote for said James Wickersham for Delegate to Congress, which said persons were not legal voters nor entitled to vote at said election, and whose votes should be deducted from the total vote credited to the said James Wickersham by the Territorial canvassing board in their final canvass and compilation of the returns of said election.

## XXI.

This contestee now having fully and completely answered the notice of contest of the said James Wickersham, and the specification of grounds thereof says that Charles A. Sulzer was fairly, legally, and duly elected Delegate from Alaska to the House of Representatives of the United States at the election aforesaid held in the Territory of Alaska on November 5, 1918; that he received the greatest number of votes at said election cast for any person for said office; that his plurality vote was larger than that found and reported by



the Territorial canvassing board which compiled and canvassed the returns of said election; that by the death of the said Charles A. Sulzer on April 15, 1919, a vacancy in the office of Delegate from Alaska in the House of Representatives was created; that at a special election duly and legally called by the Governor of Alaska and duly and legally held on the 3d day of June, 1919, in the Territory of Alaska, for the purpose of electing a Delegate from Alaska in the House of Representatives to fill said vacancy, this contestee received the greatest number of votes cast for any candidate and was duly and legally elected, and the said election was duly certified by the canvassing board of the Territory of Alaska, and said contestee is entitled to retain his seat in the House of Representatives of the United States as the Delegate from Alaska.

Wherefore, contestee prays the said House of Representatives to pass a resolution declaring that he was duly and legally elected, as aforesaid, and is the Delegate from Alaska in the House of Representatives and entitled to the seat therein which he now occupies, as aforesaid.

Dated Washington, D. C., July 26, 1919.

GEORGE B. GRIGSBY,  
*Contestec.*

UNITED STATES OF AMERICA, *District of Columbia, ss:*

George B. Grigsby, being duly sworn, says that he has read the foregoing answer by him subscribed and knows the contents thereof, and that the same is true as he verily believes.

GEORGE B. GRIGSBY.

Subscribed and sworn to before me this 26th day of July, 1919.

[SEAL.]

M. W. PICKERING,  
*Notary Public.*

My commission expires September 9, 1919.

Service of the within and foregoing answer of George B. Grigsby, contestee herein, admitted this 26th day of July, 1919, by receipt of a copy thereof.

JAMES WICKERSHAM,  
*Contestant.*

#### CONTESTANT'S REPLY TO CONTESTEE'S ANSWER.

##### I.

Comes now the contestant and for reply to the Part I of contestee's answer says that he denies each and every allegation of new matter therein.

##### II.

For reply to the allegations of new matter contained in Part II of contestee's answer contestant says:

I. For reply to the allegations contained in paragraph 3 thereof admits that the canvassing board mentioned therein took 5 months and 12 days to canvass and compile the returns of the said election of November 5, 1918, and admits there was influenza in certain parts of Alaska during said period; and contestant alleges that the said canvassing board spent but 11 days in canvassing and compiling election returns of the special election for Delegate held on June 3, 1919, in the same voting precincts in the same widespread parts of Alaska prior to the issuance of the certificate of election to the contestee Grigsby; and alleges very generally the same influenza conditions existed along the Bering Sea coast during said 11 days in June, 1919, as existed during the 5 months and 12 days given to the canvass of the prior election returns, though in different localities.

And denies each and every other allegation of new matter contained in Part II of said answer.

##### III.

And for reply to Part III of contestee's answer contestant says:

I. For reply to the allegations contained in paragraph 1 therein contestant denies each and every allegation therein contained.

II. For reply to the allegations contained in paragraph 5 therein contestant admits that said Sulzer was declared elected on April 17, 1919, two days after his death, and that a false and spurious certificate in his name was issued

by the said canvassing board alleged, and denies each and every other allegation therein contained.

III. And for reply to the other paragraphs in said Part III of said answer contestant says:

That he has no knowledge or information to enable him to make a more specific admission or denial of the allegations in paragraphs 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21, and he therefore denies each and every allegation therein contained.

Wherefore contestant prays for the relief demanded in his notice of contest herein in both cases consolidated.

JAMES WICKERSHAM,  
*Contestant.*

UNITED STATES OF AMERICA,  
*District of Columbia, ss:*

James Wickersham, being first duly sworn, deposes and says that he is the contestant mentioned in the foregoing reply; that he has read the said reply, knows the contents thereof, and that the facts therein are true as this affiant verily believes.

JAMES WICKERSHAM.

Subscribed and sworn to before me this 28th day of July, 1919.

[SEAL.]

W. W. PICKERING,  
*Notary Public in and for the District of Columbia.*

#### TESTIMONY FOR CONTESTANT.

In the case of James Wickersham, contestant, v. George B. Grigsby, contestee, pending before the House of Representatives of the United States Congress, a contested election case, coming on for hearing before Harold H. Hardman, Esq., a notary public, at Seattle, Wash., in the office of John P. Hartman, Esq., on this 6th day of August, 1919, pursuant to a notice heretofore given by the contestant to the contestee, for the taking of testimony of witnesses who have been regularly subpoenaed in said matter, and the following persons were present: Harold H. Hartman, Esq., notary public, James Wickersham, for the contestant, and Maurice D. Leehey, appearing for the contestee. The following witnesses were sworn and examined, and the following proceedings were had:

#### DEPOSITION OF B. O. LENOIR.

B. O. LENOIR, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM.

Q. Colonel, what is your name?—A. B. O. Lenoir.

Q. Col. Lenoir, what is your official position?—A. Lieutenant colonel in the Signal Corps of the Army and officer in charge of the Washington-Alaska military cable and telegraph system.

Q. How long have you been in charge of the Alaska cable system?—A. Ever since the summer of 1913.

Q. You are an officer in the Regular Army of the United States?—A. Yes, sir.

Q. And have been at all times mentioned?—A. Yes, sir.

Q. What class of men, and I mean by that, officials, are in charge of the Alaska cable and telegraph lines in Seattle and in Alaska; I mean, as to their positions in the Army?—A. They are all soldiers of the Army—soldiers and officers of the Army.

Q. They are enlisted men in the United States Army?—A. And officers of the Army.

Q. Regularly enlisted men and officers of the United States Army?—A. Yes, sir.

Q. How many such men are in charge of the Alaska cable?—A. Do you want that exact or approximate?

Q. As near as you can give the list?—A. I have got the list in Alaska only, but altogether there are about 210. [Producing list.] That is the list in Alaska last December 31.

Q. I show you a list of names of four pages, giving the names of the men, the stations where they were posted on December 31, 1918, and their present location, with some other data, and ask you if that is official?—A. This is official, taken from our records.

Q. Does it give correctly the names of all the enlisted soldiers in the service of the Signal Corps in Alaska on the date mentioned, December 31, 1918?—

A. Yes.

Q. And it gives also the stations at which they were posted at that time?—

A. Yes, sir.

Q. And gives their present location?—A. Yes.

Q. I notice that there is a column marked "Voted"; explain what that means, will you?—A. A telegram was sent, and I was directed by the Chief Signal Officer to hold all men who had voted at the last election for Delegates in Alaska on the system, owing to the fact that men were coming and going all the time, and, especially, now that the Army is being reorganized at the end of the war, and, for that purpose, those men who had to leave Alaska, sending them a telegram in effect like this. Do you want me to read this telegram?

Q. Yes, sir; read it.—A. This telegram is a copy of a general message sent to all of them, although it is addressed to only two men. (Reading:)

"C. S. O. (Chief Signal Officer) states there is to be congressional investigation of Signal Corps men voting in Alaska and desires to know whether or not you voted at the election last November for Delegates. Reply direct to this office. It is thought that Signal Corps men who voted have no ground for any uneasiness, provided there was no deception on their part. Their answers should be frank and truthful. If there has been anything wrong about their voting, that responsibility rests with those in charge of election." It is signed by me.

Q. What is the date of that?—A. June 19, this particular one. And this is their reply.

Q. I understand the column marked "Voted" shows those who have voted?—

A. And that had not. Some were "yes"; others were "no."

Q. And the next column shows those that had been discharged?—A. Yes, sir; those who had been discharged.

Q. When were they discharged, since the election of November 5, 1918?—A. Yes, sir.

Q. All this refers to the election of November 5, 1918, in Alaska, for Delegates to Congress?—A. Two of those were discharged.

Mr. WICKERSHAM. Then I introduce the statement in evidence.

The WITNESS. There are four we have no replies from, in that they are en route. You will see them marked on the last page, "en route, present location."

Q. Those four men we'll get later?—A. Those four men we will get replies from when we get in touch with them.

Q. How soon?—A. They are under orders to go to Fort Lawton, all of them, and we'll get them when they get there, unless you want to pick them up in Alaska some place, and have them held off.

Q. Do you know whether any arrangements have been made to assemble men in Alaska who voted for some one?—A. No, sir; there has been no arrangement made. I have no intimation of it, except hearsay through the press.

Q. You haven't received any official notice yet?—A. No, sir; except from the Chief Signal Officer to keep tab on all men who were to be moved.

Q. How frequently are those men moved about, Colonel?—A. According to the emergency of the service. It is impossible for anyone to tell how frequently they will be moved. They often make application to be stationed at some place for some particular time, and the invariable answer is that no promises can be made; that the emergencies of the service must govern.

Q. And there is no particular rule that they must be established at any particular place in Alaska at any time?—A. No, sir.

Q. They are subject to orders at any time?—A. Yes, sir.

Q. They are officers and soldiers of the United States Army?—A. Yes, sir.

Q. And subject to orders as such?—A. Yes, sir.

Q. Since November 5, 1918, the date of the Delegate election, how many of them have been moved from the place where they were then?—A. I could not tell unless you figure from this list.

Q. The list shows that correctly?—A. Yes, sir; it shows the station on December 31, and the present location. By comparing that, that will show.

Q. Colonel, I had some correspondence with you this spring by telegram, attempting to secure these men to testify. Do you remember that correspondence?—A. I remember there was something like that.

Q. I have copies of that correspondence here that I wanted to introduce in evidence while you were present. You don't have the originals in any shape

so that they can be presented?—A. I probably could get them by hunting the files, but I know just about what I would answer to most of those questions.

Q. On April 21, 1919, I sent you a telegram, as follows:

APRIL 21, 1919.

Col. B. O. LENOIR,

*Signal Corps Office, Seattle, Wash.:*

In view of the death of Mr. Sulzer, it seems greatly desirable to secure the evidence in my contest for the office of Delegate based on election of November 5, last year, without unnecessary publicity or partisan feeling. Congress seated me in contest over 1916 election, and held that soldiers in Regular Army, including Signal Corps men, who enlisted in outside States, did not gain residence or right to vote in Alaska, notwithstanding they were stationed here for more than a year and in precinct for more than 30 days. Their right to vote remained to them in the States where they resided when they enlisted, but did not come to Alaska with them. Of course, soldiers drafted in Alaska had the right to vote in Alaska under that rule. Won't you advise Capt. Faust, in charge at Valdez, of the rule and my wishes, and advise him and the Signal Corps men there to voluntarily make an affidavit, in duplicate, admitting the truth, stating that he was an enlisted soldier in the Army on November 5 last, giving his name and number, the place of his enlistment, and stating frankly and honestly that he voted on November 5 last for Sulzer, Wickersham, or Conolly for Delegate to Congress, as the truth might be? This is only asking them to do voluntarily what Congress has declared they must do by process of law if required. Let all make and sign the same affidavit and forward it to me at once, to be presented to the congressional election committee. That will settle the matter so far as they are concerned and get the truth into the record without unnecessary trouble and expense to the Government. Please answer collect, advising if you will assist me in persuading the men to present the exact truth to the committee in this way.

JAMES WICKERSHAM.

Q. You received that telegram, did you?—A. Yes, sir; I remember it.

Q. And the next day you answered it?—A. Yes, sir.

Q. Your answer was as follows [reading]:

SEATTLE, WASH., April 22, 1919.

Judge JAMES WICKERSHAM,

*Juneau:*

Replying telegram yesterday, have furnished Faust copy. You can readily see that a man in my public position can not show any interest in politics, as the worst will be construed therefrom. However, I lived two years in Alaska, and was satisfied that the method of soldiers voting differed from the general law in the case, which general law is based on right and justice. I recommend that you have one of your party in each place where Signal Corps men are stationed, interview each one separately on facts which you request. Looney and Rudd have seen your Seattle agent, and Faust agrees to see him. Your telegram and copy of this telegram will be wired from Valdez to Lieut. Collins in Fort Gibbon by Faust when he returns to Valdez.

LENOIR.

Q. You sent that telegram in answer to my former one?—A. Yes, sir.

Q. Then, on May 8 I sent you another telegram from Valdez, as follows [reading]:

VALDEZ, ALASKA, May 8, 1919.

Col. B. O. LENOIR,

*Commanding Alaska Signal Corps, Seattle, Wash.:*

Capt. Max H. Faust, commanding Signal Corps, Valdez, was aboard *Alameda Ketchikan* when I embarked on boat. Talked with him frankly. He stated he had voted Valdez, November 5, 1918, for Candidate Sulzer and promised me he would sign necessary affidavit admitting fact. At Juneau, in presence of witness, I requested him to sign statement suggested, and he admitted fact but declined to act. Then sought Tom Donohue, Democratic national committeeman. After long consultation with Donohue and others he refused to act, notwithstanding his prior promise. Am now in Valdez, have carefully examined records and gathered testimony. Faust and dozen other men under his command voted as he did at said election. Noaks was rewarded with appointment to Democratic office since election. In consultation with me to-day Faust again

refused to keep his former promise to make full truthful statement, saying it is not satisfactory to friend Donohue, who is also here. Told me he had not forwarded my telegram of April 21 to you, and your answer to me, to Lieut. Collins, Fort Gibbon. He is refusing to act, knowing limitations of time and steamboat travel, and an extra session of Congress and in accordance with the demands of Donohue. His action in voting was in violation law of United States in force in Alaska and his second offense. His example very bad, leading men under his command into crooked politics and violations law. Will War Department approve Signal Corps commander leading his men to polls violation law and heading them in concealing the truth, or will it request him to make honest statement requested? Am applying to men under Faust command to tell truth suggested in my telegram to you April 21. Advise you fully situation since justice to residents Territory require form conclusion that honest elections may be had here.

JAMES WICKERSHAM.

You received that telegram?—A. Yes, sir.

Q. And on the next day you answered it as follows [reading]:

SEATTLE, WASH., May 9, 1919.

Judge WICKERSHAM, Valdez:

This office can take no active part of any kind in politics in Alaska. It is cognizant of difficulties of Signal Corps men in Alaska living among civilians and more or less under influence of local political leaders who no doubt importune them to vote, and it takes considerable moral courage and legal knowledge to steer clear of such entanglements; but if they do become interested in local politics, it is entirely a question between them and civil authority, as, owing to scattering of men throughout Alaska, the difficulty and expense of changing them, it is impossible to give such matters close attention.

LENOIR.

That was your answer?

A. Yes, sir.

Q. Then on the same day I sent you another telegram, as follows [reading]:

VALDEZ, ALASKA, May 9, 1919.

Col. B. O. LENOIR,

*Commanding Alaska Signal Corps, Seattle, Wash.:*

Quite agree with you, soldiers, Regular Army, enlisted States, serving in Alaska Signal Corps should keep out of local politics, and I publicly protest against their pernicious political activity 1916 and 1918 campaigns. Capt. Faust and men engaged in Democratic political machine with him were brave in violating United States election laws but cowardly when asked to tell Congress truth about it. They must be taught to respect election laws and not given refuge behind Signal Corps Service when willfully violate same. Army must not shield illegal voters; should assist in punishing them. Have to-day served 18 with subpoenas appear next Wednesday court and testify. Strongly urge you as commander advise them voluntarily sign affidavits requested that Congress may have whole truth without more trouble. You can not keep Signal Corps out politics by permitting Tom Donohue, Democratic national committeeman, to command them and pay for their support with offices such as he gave Noaks.

JAMES WICKERSHAM.

You received that telegram?

A. Yes, sir.

Q. And you replied to it on May 10, as follows [reading]:

SEATTLE, WASH., May 10, 1919.

Judge WICKERSHAM, Valdez:

Yours yesterday. I can not take any active part in present controversy unless one party or the other draws me in as a partisan. It can not be seen how soldiers can be interested in Alaska politics except under the influence of local leaders, and if this influence is wrongly used the question of rectification is for civil authorities and the soldiers' own idea of right and wrong.

LENOIR.

You sent that telegram to me, Colonel?

A. Yes, sir.

Q. Col. Lenoir, sometime ago I wrote you a letter to the department, under date of June 2, 1919, asking for certain information with respect to conditions



of control of the government telegraph line at Ruby, Alaska, and that, as I understand, was forwarded by the Secretary of War, or through the War Department, to you, for information.—A. Yes, sir.

Q. I now show you a letter which I received after I saw you yesterday, signed by F. R. Curtis, colonel, Signal Corps, from Washington, in respect to that matter. I just wanted you to say that it is official?—A. Yes, sir.

Q. It contains a copy of the information which you forwarded to the War Department respecting that matter?—A. Yes, sir.

Q. So far as you can see it is official and correct in its statement?—A. Yes, sir, it seems to be all right as far as I can see.

Q. Colonel, are there any men mentioned in this list which has been filed with the stenographer, or any men connected with the management of the Government cable and telegraph lines in Alaska who are not enlisted soldiers in the United States Army?—A. There are two messengers in the larger places, like Valdez, Cordova, and Nome.

Q. But their names are not included in this list?—A. No, sir, none in that list.

Q. In what capacity are they employed, and how?—A. Delivering telegrams.

Q. Are they boys?—A. Well, we are lucky to get hold of anything that can carry them now. I don't know whether they are boys, or not. In Seattle here we have a man about 60 years old. Capt. Foust can tell you about that.

Q. But those men are not enlisted men in the United States Army?—A. No.

Q. They are employees?—A. I should say they are young men, usually are.

Q. But other than those, all those are usually enlisted men in the Army?—A. Yes, sir.

Q. Where are they from, Colonel?—A. They are from all parts. You can't tell. No particular part of the country.

Q. Do you know whether they are enlisted in Alaska or outside?—A. There are very few enlistments in Alaska.

Q. They are substantially all enlisted outside of Alaska, aren't they?—A. I believe they are. There might be some re-enlistments when their time is up.

Q. Where there is a re-enlistment, what is the usual practice?—A. If their term of enlistment has expired, if they want to take another service, they can take another contract with the Government.

Q. And go right on with their work?—A. Yes, sir.

Q. Their term expires one day, and they are enlisted as of the next day and go right ahead?—A. Yes, sir.

Q. And the continuity of their work is not broken?—A. As a usual thing it is not; although they may possibly stay out of the service a little while and go back again.

Q. But the usual thing is they go back immediately?—A. If they want to enlist at all; those men who expect to follow up the Army as a profession, they reenlist right away, as a usual thing.

Q. Col. Lenoir, the Government keeps a record of the residences of men who enlist in the Army at the time of their enlistment, doesn't it?—A. Yes, sir.

Q. It keeps the date of their original enlistment?—A. Yes, sir.

Q. And the place of their original enlistment?—A. Yes, sir.

Q. And their residence at the time of their enlistment?—A. Yes, sir.

Mr. WICKERSHAM. I now offer in evidence the official communication from the chief clerk of the War Department, dated July 30, 1919, addressed to me, and which is attached to a memorandum of the War Department, giving the data mentioned by Col. Lenoir, with respect to the operation and control of the telegraph line at Ruby, Alaska, and I ask to have it marked "Exhibit 2."

(Paper so marked and hereto attached.)

Cross-examination by Mr. LEEHEY.

Q. Col. Lenoir, do you know the residence of the men given in this list which you have produced here and which has been placed in evidence?—A. I could not tell without reference to the official record.

Q. Do you know whether any of these men actually reside in Alaska?—A. I can't recall any one that resides there—that has a home in Alaska.

Q. Do you, as a matter of fact, know where they are residing?—A. No, sir; not without looking at the official record. It can be ascertained, though, definitely, from their record. There is a complete record of every man.

Mr. WICKERSHAM. With respect to that, Mr. Leehey, I have a certified list of the names, the date of the original enlistment, the place of the original enlistment, and the residences of 40 of those men whom I questioned. Now,

the original of this has been filed with the House, but I will put a copy into the record at this time without you object, the original being with the House of Representatives, now filed with the clerk. I think I will read this and refer to the original, so that it can go in at this time.

Q. Col. Lenoir, I want to call your attention to what I read now, and I want you to say, when I conclude, whether it is generally in accord with the rules and regulations of the department:

UNITED STATES OF AMERICA,  
WAR DEPARTMENT,  
Washington, June 11, 1919.

I hereby certify that the statement made on the attached paper is based upon records on file in the office of The Adjutant General of the Army, and that the several items included therein are true copies from those records.

P. C. HARRIS,  
Major General, United States Army,  
The Adjutant General.

I hereby certify that P. C. Harris, who signed the foregoing certificate, is The Adjutant General of the Army, and that to his certification as such full faith and credit are and ought to be given.

In testimony whereof I, Newton D. Baker, Secretary of War, have hereunto caused the seal of the War Department to be affixed and my name to be subscribed by the assistant and chief clerk of the said department, at the city of Washington, this 11th day of June, 1919.

NEWTON D. BAKER,  
Secretary of War.  
By JOHN C. SCOFIELD,  
Assistant and Chief Clerk.

The records on file in the office of The Adjutant General of the Army show date and place of original enlistment and residence at date of original enlistment as follows in the cases of the soldiers mentioned:

Name.	Date of original enlistment.	Place of original enlistment.	Residence.
Chas. A. Agnetti.....	Oct. 10, 1914	Fort Slocum, N. Y.....	Brooklyn, N. Y.
William T. Barr.....	Dec. 31, 1903	Lincoln, Nebr.....	Not shown.
Ike A. Beal.....	Jan. 24, 1914	Recruiting depot, Fort Logan, Colo.	Amarillo, Tex.
Edward E. Beattle.....	July 24, 1917	Fort Wm. H. Seward, Alaska	727 Dixon Street, Juneau, Alaska.
James W. Boon.....	Nov. 23, 1912	Jackson Barracks, La.....	Newman, Ga.
James M. Campbell.....	Feb. 11, 1909	Columbus Barracks, Ohio...	Norwalk, Ohio.
Howard G. Clifton.....	July 11, 1915	Fort Slocum, N. Y.....	Clifton Forge, Va.
Harvey B. Conover.....	July 2, 1917	Jefferson Barracks, Mo.....	St. Louis, Mo.
Ralph N. Cummins.....	Aug. 21, 1913	.....do.....	Fairview, W. Va.
William J. Cuthbert.....	July 18, 1917	Fort George Wright, Wash..	Deer Lodge, Mont.
Herman D. Marce.....	Feb. 24, 1915	Fort Snelling, Minn.....	Veblen, S. Dak.
James A. Ellison.....	Aug. 15, 1917	Toronto, Canada.....	Not shown.
Rudolph Elmquist.....	Oct. 8, 1913	Fort Snelling, Minn.....	Stillwater, Minn.
Max H. Faust (captain).....	June 21, 1899	New York, N. Y.....	56 East One hundred and eighteenth Street, New York, N. Y.
Thomas F. Griffith.....	Oct. 1, 1914	Manila, P. I.....	Not shown.
Guy B. Hawley.....	Nov. 13, 1915	Fort Lawton, Wash.....	Spokane, Wash.
Durwood M. Hocker.....	July 24, 1914	Columbus Barracks, Ohio...	Owensboro, Ky.
Alex A. Kott.....	Jan. 30, 1914	Fort Lawton, Wash.....	Manistee, Mich.
Leo Kraft.....	Mar. 17, 1917	Fort McDowell, Calif.....	Winona, Minn.
Emil Lains.....	Dec. 24, 1913	Columbus Barracks, Ohio...	Chicago, Ill.
James P. Lake.....	Aug. 11, 1913	Jefferson Barracks, Mo.....	St. Paul, Kans.
Dr. W. E. Leonard.....	No record.....	.....	.....
Phil F. McQuillan.....	Nov. 21, 1898	Rochester, N. Y.....	Not shown.
Horace R. Morgan.....	Apr. 23, 1917	Fort Lawton, Wash.....	Seattle, Wash.
James W. McConnell.....	Mar. 19, 1908	Fort Snelling, Minn.....	Duluth, Minn.
Richard H. L. Noaks.....	Apr. 3, 1911	Fort Logan, Colo.....	El Paso, Tex.
Charles R. Olde.....	Dec. 18, 1911	Jefferson Barracks, Mo.....	McLeanboro, Ill.
John E. Pegues.....	Sept. 21, 1912	Fort Logan, Colo.....	Oklahoma City, Okla.
Wm. R. Rodgers.....	Jan. 9, 1903	New Orleans, La.....	New Orleans, La.
Robert L. Searce.....	May 4, 1914	Fort McDowell, Calif.....	Frankfort, Ky.
Louis G. Selk.....	July 18, 1903	St. Louis, Mo.....	5216 Virginia Avenue, St. Louis, Mo.
Harry Shutts.....	June 27, 1907	Fort Wood, N. Y.....	Neptune City, N. J.
Burr M. Snyder.....	July 16, 1913	Fort McDowell, Calif.....	San Francisco, Calif.
Herman D. Steubuck.....	Nov. 11, 1915	Chicago, Ill.....	Milwaukee, Wis.

Name.	Date of original enlistment.	Place of original enlistment.	Residence.
Clement C. Stroupe.....	Aug. 2, 1913	Fort McDowell, Calif.....	Sacramento, Calif.
Donald H. Tyer.....	May 13, 1917	Fort Logan, Colo.....	Redding, Iowa
Harlan Van Wyck.....	July 28, 1917	Seattle, Wash.....	Seattle, Wash.
Howard G. Wescott.....	Feb. 24, 1914	Fort McDowell, Calif.....	Do.
Elmer D. Whittle.....	July 6, 1917	Fort Lawton, Wash.....	Do.
Horace W. Whitman.....	Jan. 24, 1914	Jackson Barracks, La.....	New Orleans, La.

That is all, Colonel.  
(Witness excused.)

B. O. LENOIR.

Subscribed and sworn to before me this 6th day of August, A. D. 1919.

[SEAL.]

HAROLD H. HARTMAN,  
Notary Public in and for the State of Washington.

EXHIBIT 1.

Roster of Signal Corps officers and enlisted men in Alaska Dec. 31, 1918.

FIRST SERVICE COMPANY.

Name.	Station Dec. 31, 1918.	Present location.	Voted.	Discharged.
Captain: Faust, Max H.....	Valdez.....	Seattle.....		
Master signal electrician: Snyder, Burr M.	do.....	Valdez.....		
Sergeants first class:				
Billings, Wesley J.....	do.....	do.....		
Elmquist, Rudolph.....	do.....	Cordova.....		
Montgomery, Ellis R.....	Seward.....	Seward.....		
Pegues, John E.....	Fairbanks.....	Fairbanks.....	Yes.....	
Sergeants:				
Beal, Ike A.....	Valdez.....	Seattle.....		
Boardman, Fay.....	Fairbanks.....	Fairbanks.....		
Hocker, Durwood M.....	do.....	do.....		
Johns, Clarence M.....	Copper Center.....	Copper Center.....		
Kinloch, Ernest P.....	Liscum.....	Valdez.....		
Noaks, Richard H. L.....	Valdez.....	Cordova.....	Yes.....	Yes.
Corporals:				
Agnetti, Charles A.....	do.....	Valdez.....		
Dana, George W., jr.....	Fairbanks.....	Fairbanks.....		
Foster, Austin L.....	Valdez.....	Valdez.....		
Griffin, Thomas G.....	Fairbanks.....	Fairbanks.....		
High, Benjamin V.....	Seward.....	Seward.....		
Kott, Alex A.....	Valdez.....	Valdez.....		
McLaughlin, Harry W.....	Salcha.....	Fairbanks.....		
McNally, Richard.....	Teikhell.....	Copper Center.....		
Rogers, William R.....	Valdez.....	Valdez.....		
Rowbottom, Henry T.....	McCarty.....	England.....	No.....	
Shutts, Harry.....	Valdez.....	Valdez.....		
Tyler, Andrew V.....	Cordova.....	do.....		
Van Wyck, Harlan.....	Valdez.....	Seattle.....	Yes.....	Yes.
Privates, first class:				
Almgren, Harold B.....	Seward.....		No.....	Yes.
Caracs, Don R.....	Fairbanks.....	Fairbanks.....	No.....	
Clifton, Howard G.....	Valdez.....	Valdez.....		
Cuthbert, William J.....	do.....	do.....		
Davis, Thomas H.....	Donnelly.....	do.....		
DuMarce, Herman.....	Fort Liscum.....	Fort Liscum.....		
Ellison, Anderson.....	Gulkana.....	Gulkana.....		
Fouch, Hugh.....	Seward.....	Valdez.....	No.....	Yes.
Gleason, Thomas A.....	Paxson.....	Paxson.....	No.....	
Hoover, Howard H.....	Seward.....	Seattle.....	No.....	Yes.
Hopkins, Edward L.....	Valdez.....	Valdez.....		
Keely, Lester C.....	Cordova.....	Cordova.....		
Kennedy, Elbert S.....	Tonsina.....	Donnelly.....		
Krupitza, Karl.....	Richardson.....	Richardson.....		
Lains, Emil.....	Valdez.....	Valdez.....		
Lines, Hoxie H.....	Cordova.....	Cordova.....		
Locker, Michael.....	Liscum.....	Transferred to Fort Sam Houston.		
Looney, James B.....	Seward.....	Seattle.....		
MacDonald, Bertram S.....	Paxson.....	Salcha.....		

## Roster of Signal Corps officers and enlisted men in Alaska Dec. 31, 1918—Con.

## FIRST SERVICE COMPANY—Continued.

Name.	Station Dec. 31, 1918.	Present location.	Voted.	Discharged.
<b>Privates, first class—Contd.</b>				
Meyerson, Raphael.....	Brooks.....	Brooks.....		
Mills, Laurence R.....	Fairbanks.....	Fairbanks.....		
Montague, John A.....	McCallum.....	McCallum.....		
Murphy, James O.....	Wortmans.....	Wortmans.....		
Rosegard, John.....	Tonsina.....	Tonsina.....	No.....	
Smith, Robert S.....	Cordova.....	Astoria, Oreg.....	No.....	Yes.
Stack, Willie L.....	Fairbanks.....	Fairbanks.....		
St-nbuck, Herman B.....	do.....	McCarty.....		
Suplee, Walter L.....	Teikhell.....	Teikhell.....		
Thuesen, Einer H.....	Valdez.....	Valdez.....		
Whipple, William E.....	Beaver Dam.....	do.....		
Whittle, Elmer D.....	Fairbanks.....	Fairbanks.....	Yes.....	
Woodrum, Charles D.....	Hogan.....	Hogan.....		

## SECOND SERVICE COMPANY.

<b>First lieutenant:</b>				
Collins, Ambrose S.....	Fort Gibbon.....	Fort Gibbon.....		
<b>Master signal electrician:</b>				
Hainline, Richard L.....	Fort Yukon.....	Fort Yukon.....		
Inman, William H.....	Nome.....	Nome.....		
<b>Sergeants, first class:</b>				
Barr, William T.....	Fort Gibbon.....	Fort Gibbon.....		
Campbell, James M.....	do.....	do.....		
Downer, Arthur J.....	do.....	do.....		
McKeone, George L.....	Nome.....	Nome.....		
Murphy, Charles B.....	Fort Egbert.....	Fort Egbert.....		
Wescott, Howard G.....	Nulato.....	Nulato.....		
<b>Sergeants:</b>				
Barnet, George S.....	Fort Gibbon.....	Fort Gibbon.....		
Curlee, James W.....	do.....	do.....		
Helms, Sidney L.....	Circle.....	Circle.....		
Scanland, Louis W.....	Nenana.....	Nenana.....		
Swenson, John A.....	Fort Gibbon.....	Fort Gibbon.....		
<b>Corporals:</b>				
Anderson, Glenn G.....	Hot Springs.....	Hot Springs.....		
Barnett, George W.....	Iditarod.....	Iditarod.....		
Beattie, Edward E.....	Fort Gibbon.....	Fort Gibbon.....		
Belgard, John E.....	Nome.....	Nome.....		
Boon, James W.....	Nulato.....	Nulato.....		
Fitzwilliams, Basil.....	Fort Gibbon.....	Fort Gibbon.....		
MacDowell, James S.....	Holy Cross.....	Holy Cross.....		
Rothacher, Norman W.....	St. Michael.....	Nome.....		
Strupe, Clement C.....	Nulato.....	Nulato.....		
Young, Glenn.....	Melzi.....	Melzi.....		
Cook: Edwards, John C.....	Fort Gibbon.....	Hot Springs.....		
<b>Privates, first class:</b>				
Ashton, Albert R.....	Koyukuk.....	Koyukuk.....		
Baker, Harold L.....	Nome.....	Seattle.....	No.....	Yes.
Barnett, William R.....	Fort Gibbon.....	San Francisco.....	No.....	
Carey, Clark A.....	Nulato.....	Nulato.....		
Champlin, John H.....	Fort Gibbon.....	do.....		
Christy, Thomas V.....	Nome.....	Nome.....	No.....	Yes.
Craugh, Frank P.....	Fort Egbert.....	Fort Lawton.....	No.....	
Doll, Marvin A.....	Fort Davis.....	Nome.....	No.....	Yes.
Draper, Charles D.....	Fort Gibbon.....	Kokrines.....		
Eckerson, Lloyd R.....	Nenana.....	Nenana.....		
Eslick, John J.....	Fort Gibbon.....	Fort Gibbon.....	No.....	Yes.
Growden, William N.....	Kokrines.....	Kokrines.....		
Hilsman, Arthur.....	Fort Gibbon.....	Fort Gibbon.....		
Howbrook, Mark J.....	do.....	do.....		
Huhndorf, Max F.....	Kokrines.....	do.....		
Jorgensen, Svend A. C.....	St. Michael.....	St. Michael.....		
Kaiser, Henry S.....	Birches.....	Birches.....		
Kelley, Edwin B.....	Fort Gibbon.....	Fort Worden.....	No.....	
King, Fred E.....	do.....	Fort Gibbon.....		
Lake, James P.....	Nulato.....	Nulato.....		
Lovgren, Clarence L.....	Nome.....	Nome.....		
McConnell, James W.....	Nulato.....	Nulato.....		
Mathews, Lawton.....	Birches.....	do.....		
Matthews, Thomas E.....	Nenana.....	Nenana.....		
Morgan, Horace R.....	Nulato.....	Fort Lawton (en route).....		
Morris, William L.....	Nenana.....	Nenana.....		
Murray, Mark F.....	Nulato.....	McGrath.....	Yes.....	
Nelson, William.....	Birches.....	Nome.....		
Owen, Thomas J.....	Nome.....	do.....		

## Roster of Signal Corps officers and enlisted men in Alaska Dec. 31, 1918.—Con.

## SECOND SERVICE COMPANY.—Continued.

Name.	Station Dec. 31, 1918.	Present location.	Voted.	Discharged.
<b>Privates, first class—Contd.</b>				
Peck, Ernest L.....	Fort Gibbon.....	Kotlik.....		
Rees, Jerry L.....	Tolovana.....	Fort Lawton (en route).....		
Sanders, Henry C.....	Louden.....	Tolovana.....		
Selerup, Frank J.....	Birches.....	En route Fort Lawton.....		
Selk, Louis G.....	Fort Gibbon.....	Fort Gibbon.....		
Smith, George A.....	Nome.....	Nome.....		
Steele, Jesse O.....	Fort Gibbon.....	(?).....	No.....	Yes.
Taylor, Claud C.....	Nenana.....	Nenana.....		
Terrell, William E.....	Birches.....	(?).....	No.....	Yes.
Ulen, Elmer J.....	Chena.....	Chena.....		
Walker, George B.....	Fort Gibbon.....	Fort Gibbon.....		
Wallace, Edmund J.....	St. Michael.....	St. Michael.....		
Whalen, Robert X.....	Nome.....	(?).....	No.....	Yes.
Wheat, Roy J.....	Fort Gibbon.....	En route Lawton.....		
Wilson, Ralph O.....	do.....	Fort Gibbon.....		
Modeweg, Axel.....	St. Michael.....	(1).....		
Private: McAfee, Jacob Z.....	Melozi.....	Fort Ward.....	No.....	

## TWENTY-SEVENTH SERVICE COMPANY.

<b>Master signal electrician:</b>				
McNurney, Michael A.....	Petersburg.....	Petersburg.....		
McQuillan, Philip F.....	Sitka.....	Sitka.....		
Sanford, Homer A.....	Juneau.....	Juneau.....		
<b>Sergeants, first class:</b>				
Barbee, Edward B.....	do.....	do.....		
DeLong, Leonard J.....	Ketchikan.....	Ketchikan.....		
Whitman, Horace W.....	Sitka.....	Sitka.....		
<b>Sergeants:</b>				
Harper, Leon F.....	do.....	do.....		
Hawley, Guy B.....	do.....	do.....		
Irvine, Harry W.....	Douglas.....	Douglas.....		
Jandorf, Jesse R.....	Sitka.....	Petersburg.....		
McLaughlin, William W.....	Wrangell.....	Wrangell.....		
Tubbs, Cary L.....	Juneau.....	Juneau.....		
<b>Corporals:</b>				
Cummins, Ralph N.....	Sitka.....	Sitka.....	Yes.....	
Hardman, Robert L.....	Juneau.....	Juneau.....		
Rohlinz, Arthur H.....	Petersburg.....	Petersburg.....		
Tronker, Joseph.....	Ketchikan.....	Ketchikan.....		
Tucker, Cloyes O.....	Juneau.....	Juneau.....		
<b>Privates, first class:</b>				
Allard, Joseph G.....	Sitka.....	(?).....	No.....	Yes.
Ambler, Thomas J.....	Fort Seward.....	Haines.....	No.....	Yes.
Campbell, Thomas N.....	Sitka.....	Sitka.....		
Conover, Harvey B.....	do.....	do.....	Yes.....	Yes.
Dotts, Walter H.....	Fort Seward.....	Juneau.....		
Field, Clyde T.....	Sitka.....	Transferred to Fort Houston.....		
Firkins, Leon R.....	Petersburg.....	Petersburg.....	No.....	
Gutfeld, Arnold.....	Skagway.....	Skagway.....		
Howbrook, Charles H.....	Juneau.....	Sitka.....		
Kelly, Andrew J.....	do.....	Juneau.....	No.....	Yes.
Kielty, Henry J.....	Sitka.....	Sitka.....	No.....	
Kraft, Leo.....	do.....	Nome.....		
Lawrence, Clarence D.....	Wrangell.....	Wrangell.....		
Lipsitz, Louis.....	Sitka.....	Sitka.....		
Morrison, Lorraine G.....	Juneau.....	(?).....	No.....	Yes.
Otto, Oliver G.....	Ketchikan.....	Ketchikan.....		
Rudd, Robert R.....	Juneau.....	Wrangell.....	No.....	
Searce, Robert L.....	Sitka.....	Transferred to Fort Houston.....		
Stevens, Lyle W.....	do.....	Haines.....		
Private: Mortimer, Harry H.....	Wrangell.....	Wrangell.....	No.....	

<sup>1</sup> Deceased Nov. 13, 1918.

## EXHIBIT 2.

WAR DEPARTMENT,  
Washington, July 30, 1919.Hon. JAMES WICKERSHAM,  
Room 167, House Office Building,  
Washington, D. C.

MY DEAR SIR: Referring to inquiries contained in your letter of 2d instant, regarding the establishment, operation, and control of the Ruby telegraph



lines at Ruby, Alaska, I beg to inclose herewith a memorandum on the subject, made by authority of the Chief Signal Officer under date of 26th instant, which it is hoped will furnish the required information.

Very respectfully,

J. B. RANDOLPH,  
*Acting Assistant and Chief Clerk.*

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WAR DEPARTMENT,  
OFFICE OF THE CHIEF SIGNAL OFFICER,  
Washington, July 26, 1919.

Memorandum for the Secretary of War:

1. The following is furnished with reference to inquiries contained in letter of July 2, 1919, from Hon. James Wickersham, Delegate from Alaska, regarding the establishment, operation, and control of the Ruby telegraph lines at Ruby, Alaska:

"Whether such private over-the-river wires were put in for transmitting both official and commercial telegrams to Ruby, and the mines farther south, with the consent of the Signal Corps, and when?"

The Ruby (Alaska) telegraph line was put in by private individuals and opened for business September 20, 1911, over which both official and commercial telegrams are transmitted as far as Ruby. The Signal Corps had nothing to do with the installation of this line.

"Has such arrangement existed from the date when such wires were first swung across the river, and is it yet in force?"

This arrangement has existed since September 20, 1911, and is now in force.

"Were the over-the-river wires originally put up by persons connected with the Signal Corps, and if so will you kindly give me the names of the persons who so put them up, and state if such persons are yet in control of them?"

The Ruby line was built by H. A. Wentz and T. J. DeVane and as far as known they still remain in control.

"Are such persons the owners of the over-the-river wires, as managers for themselves or some company, or do they control them for the Signal Corps?"

Wentz & DeVane own the line themselves, so far as known by this office. The Signal Corps had nothing to do with the line except to connect with it like they do with many other lines both in and out of Alaska.

"What are the charges for sending telegrams across the river to Ruby, and who gets the tolls?"

The charges are \$0.90 for 10 words and 9 cents for each additional word for commercial business, and for official business it is \$0.90 for 10 words and 5 cents for each additional word.

While these charges appear to be abnormally high, yet the amount of business is so little that it is not thought it would pay the cost of operating unless the owners of the telegraph line were the operators themselves. This seems to be the general rule with connecting lines in Alaska where the rates are high.

In reply to paragraph 6, the telegraph line at Ruby was erected as a private enterprise by Messrs. Wentz and DeVane and, so far as known, they are the only parties connected with the control and management thereof since its construction. The records of this office show that H. A. Wentz was enlisted for the Signal Corps at Fort Slocum, N. Y., December 12, 1907; was discharged on December 11, 1910, at Fort Gibbon, Alaska; reenlisted on December 12, 1910, Fort Gibbon, Alaska; discharged by purchase at Melozi, August 14, 1911. T. J. DeVane was enlisted for the Signal Corps at Fort Slocum, N. Y., January 15, 1908; discharged Fort Gibbon, Alaska, January 14, 1911; reenlisted Fort Gibbon, Alaska, January 15, 1911; discharged by purchase Fort Gibbon August 14, 1911.

By authority of the Chief Signal Officer.

F. R. CURTIS,  
*Colonel, Signal Corps.*

## EXHIBIT 3.

SEATTLE, WASH., August 4, 1919.

To GEORGE B. GRIGSBY, contestee, and MAURICE D. LEEHEY, his agent and attorney, Seattle, Wash.

MY DEAR SIRS: I understand you complain you will not have sufficient time in the 40-day period allotted to you by the United States statutes and House resolution 105 to take your evidence in the contested election cases in which I am contestant and you are contestee as the successor in interest of Mr. Sulzer.

The present situation puts the burden on me of taking testimony from July 28, and compels me to spend one-half of my 40 days in transmitting the original pleadings to Alaska so the issues and evidence may be limited before the court or officer taking the testimony; and thus gives you your 40 days clear for taking your testimony, yet I propose this modification of the rule in the interest of both sides.

I will agree with you in writing to waive the limitation of the 40 and 10 day periods in the 90 days total time for taking the testimony, so that we may both have all the time in the 90 days in which to take the same. That would give you the whole of the 90-day period in which to take your testimony. We can both serve notices and proceed to the taking of testimony at any time, without regard to the 40 and 10 day periods. This will enable you to begin taking testimony at once, and continue to do so from day to day during the whole 90-day period. It will extend your time at both ends, and give us both the full period. It will save you the trouble of having your agents and attorneys attend the same place twice to take testimony, first to take mine, and second to take yours. Why not do both at the same time and place? This plan will, of course, double your present limit of time for taking your testimony, but I think the accommodation to both is worth it, and therefore propose the agreement, notwithstanding its apparent favor to you.

Will you kindly advise me of your acceptance of this suggestion by telegraph, and the agreement may be made as of that date.

Very truly,

JAMES WICKERSHAM, Contestant.

Served on me August 5, 1919.

MAURICE D. LEEHEY,  
Agent for Geo. B. Grigsby.

## DEPOSITION OF JAMES B. LOONEY.

JAMES B. LOONEY, sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

- Q. State your name.—A. James B. Looney.  
 Q. How old are you?—A. Twenty-five years.  
 Q. Where were you born?—A. I was born in Fort Smith, Ark.  
 Q. What is your business now?—A. Telegrapher.  
 Q. In what service are you?—A. Signal Corps, United States Army.  
 Q. How long have you been in the Signal Corps of the United States Army?—  
 A. Two years and seven months.  
 Q. Where were you enlisted?—A. Kansas City, Mo.  
 Q. Where was your residence prior to that?—A. Okmulgee, Okla.  
 Q. When were you enlisted?—A. November 6, 1916.  
 Q. How long have you been stationed in Alaska?—A. A year and 11 months.  
 Q. You were stationed in Alaska on November 5, 1918, at the time of the election?—A. Yes, sir.  
 Q. Where were you stationed at that time?—A. Seward, Alaska.  
 Q. Did you vote on that day?—A. Yes, sir.  
 Q. How many Signal Corps men were there in Seward at that time?—A. I believe there were six.  
 Q. How many of them voted?—A. I don't know just exactly how many of them voted.  
 Q. Do you know anyone that did vote besides yourself?—A. No, sir.  
 Q. You voted?—A. Yes, sir.  
 Q. I wish you would state if you voted for Delegate to Congress?—A. Yes, sir.  
 Q. Who did you vote for?

Mr. LEEHEY. The contestee objects on the ground can not be requested to state for whom he voted unless he wishes to do so freely and voluntarily, and makes the objection simply to present the fact to the witness of his rights in the matter.

A. I don't care to state.

Q. Well, you have heretofore stated, haven't you?—A. Yes, sir; I believe I have.

Q. You made an affidavit?—A. Yes, sir.

Q. And in that affidavit you testified that you voted for Charles A. Sulzer for Delegate to Congress?—A. Yes, sir.

Q. Is that true?—A. Yes, sir.

Q. Why didn't you care to state; why did you make that statement?—A. Well, I don't consider that it is anybody's business except my own.

Q. You are an American citizen, aren't you?—A. Yes, sir.

Q. You believe in enforcing the laws of the United States fairly, don't you?—A. Yes, sir.

Q. As a general thing you don't violate the law, do you?—A. No, sir.

Q. And you don't want to do it now, do you?—A. No.

Q. Well, if it should turn out that it would not be lawful for you to vote, you would not be a legal voter, would you?—A. If it was proven that I was not legally entitled to.

Mr. LEEHEY. I object to that as calling for a conclusion of the witness.

Mr. WICKERSHAM. The rule, Mr. Leehey, is that only that person may take refuge behind the secrecy of the ballot who has a legal right to vote.

Mr. LEEHEY. You are not entitled to cross-examine your own witness.

Mr. WICKERSHAM. One who has not a legal right to.

Mr. LEEHEY. I don't know. May be this man has a legal right to vote.

Mr. WICKERSHAM. That is what we are trying to find out.

Mr. LEEHEY. You are assuming that he has not.

By Mr. WICKERSHAM:

Q. Where had been your residence for years prior to this date?—A. My residence prior to my enlistment in the Signal Corps was Okmulgee, Okla.

Q. Where do your folks live?—A. Okmulgee.

Q. Didn't you say in your affidavit that that had been your residence all that time?—A. Yes, sir; that is what I said then.

Q. That is true, isn't it?—A. Yes.

Q. You came to Alaska as an enlisted soldier, didn't you, in the United States Army?—A. Yes, sir; I asked to be transferred to Seward, Alaska.

Q. And you were transferred there upon your request?—A. Yes.

Q. Where are you now?—A. Seattle.

Q. How long have you been here?—A. About four months, I should judge.

Q. When did you come here?—A. I don't remember the exact date.

Q. About when? It is not material.—A. The latter part of March, I believe.

Q. Did you request to be sent here?—A. Yes, sir.

Q. And you were ordered here at your request; is that right?—A. Yes, sir.

Q. In the Army what is the rule about that? Isn't it true that you may be ordered anywhere by your commanding officer?—A. Yes, sir.

Q. So that your residence, or the fact that you were in Seward, was not because you desired to be there, but because in the Army your superior officer desires to have you there; is that right?—A. To a certain extent, yes, sir; but he gives preferences lots of times.

Q. And lots of times he doesn't—as a matter of fact, you were under orders?—A. Yes, sir.

Cross-examination by Mr. LEEHEY:

Q. You say you requested to be sent to Seward?—A. Yes, sir.

Q. When were you sent there?—A. I arrived there July 17, 1917.

Q. Were you there continuously from July, 1917, until the election in November, 1918?—A. Yes, sir.

Q. What place did you intend to claim as your residence during that period, from July, 1917, until after the election in November, 1918?

Mr. WICKERSHAM. I object to that, and to all other questions of that kind, on the ground that a soldier enlisted in the United States Army has no preference. He is under the orders of his superior officer, and has no preference in the matter. He must go wherever his superior officer orders him to go, and he has to be stationed wherever his superior officers ordered him to be stationed under the law.

Mr. LEEHEY. Without undertaking to present an argument, I am proceeding on the assumption that a man—the residence being a matter of intention, that a man has a right to express his intention of residence. I want it in the record.

A. I considered Seward as my residence at the time.

Q. Why did you ask to be transferred to Seward, Alaska?—A. There was a vacancy open there, and I was located in Seattle at the time, and I thought I would like to work up there, and would be better satisfied.

Q. Did you have any intention of living in Seward, permanently, when you asked to be transferred there?—A. Yes, sir; I figured on living there, and finishing my enlistment there anyway.

Q. Did you have any intention of residing there permanently?—A. Not after my enlistment.

Redirect examination by Mr. WICKERSHAM:

Q. In the affidavit you made you stated "That his home and residence is, and was at all times herein mentioned in the city of Okmulgee, Okla., and that it was on November 5, 1918, at Seward, Alaska, on duty as a cable operator in the United States Signal Corps; that he on that date voted at the election held for the purpose of choosing a Delegate for the House of Representatives of the United States for the Territory of Alaska, and he cast his vote for Charles A. Sulzer." Is that correct?—A. Yes, sir.

JAMES B. LOONEY.

Subscribed and sworn to before me, this 6th day of August, A. D. 1919.

[ SEAL. ]

HAROLD H. HARTMAN,  
*Notary Public in and for the State of Washington.*

DEPOSITION OF IKE A. BEAL.

IKE A. BEAL, having been sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. State your name.—A. Ike A. Beal.

Q. What is your business?—A. Cable operator.

Q. How long have you been engaged in that business?—A. Oh, since January 22, 1914.

Q. Where did you enlist?—A. Fort Logan, Colo.

Q. Where had you resided prior to that time?—A. All over.

Q. Had you ever resided in Alaska prior to that time?—A. No.

Q. Have you been in the Regular Army ever since that time?—A. Yes.

Q. And are now?—A. Yes, sir.

Q. You haven't been discharged?—A. No, sir.

Q. When did you first go to Alaska?—A. It was in March, 1914; I don't remember the exact date.

Q. You were sent here as a soldier in the Regular Army?—A. I come here at my own request.

Q. But as a soldier in the Regular Army of the United States—A. Yes, sir.

Q. By the orders of your superior officer?—A. Yes, sir.

Q. But you also requested Alaskan service?—A. Yes, sir.

Q. And you were ordered to Alaska by your superior officers in pursuance to your request?—A. Yes, sir.

Q. And you have been in Alaska ever since?—A. Yes, sir; until last February.

Q. February of this year?—A. Yes, sir; February, 1919.

Q. Then what happened to you?—A. I am still here.

Q. You were ordered to come to Seattle?—A. No, sir. I come out on furlough.

Q. Are you still on furlough?—A. No, sir.

Q. What service are you in?—A. In the Signal Corps.

Q. Where?—A. At Seattle.

Q. In the office of the United States Cable and Telegraph Service here?—A. Yes, sir.

Q. Who is your commanding officer here?—A. Col. B. O. Lenoir.

Q. Who was your commanding officer while you were in Alaska?—A. The first one was Lieut. Clarence A. Dougherty, then Capt. Nolan, then Capt. Faust.

Q. Where were you first stationed in Alaska?—A. At Valdez.

Q. How long were you there?—A. I was at Valdez, close to 14 months altogether.

Q. All the time serving in the United States Army as a Signal Corps man?—A. Yes, sir.

Q. Then where did you go?—A. I was, counting the 14 months that I was at Valdez, and out on the trail, together.

Q. You were engaged in the same service?—A. Yes, sir.

Q. After that 14 months in Alaska you came to Seattle?—A. No, sir.

Q. Then where did you go?—A. I went from Valdez to Cordova.

Q. How long were you at Cordova?—A. Fourteen months.

Q. You were 14 months at Valdez and 14 months at Cordova?—A. Yes, sir.

Q. Then where did you serve?—A. I went back to Valdez.

Q. How long were you there then?—A. I don't remember just how long. I was there something over four years. four years and five months.

Q. Are you a married man?—A. No, sir.

Q. Where did you live while you were in this service?—A. I lived at Valdez.

Q. Whereabouts in Valdez, in the Signal Corps offices, or rooms?—A. No, sir. I had a house of my own, a rented house.

Q. Where?—A. I had several of them around town.

Q. That is usual, that Signal Corps men do live out in rented houses of their own, isn't it?—A. Or at the hotel. Any place they want.

Q. Wherever they choose?—A. Yes, sir.

Q. They have pretty permanent service?—A. Yes, sir.

Q. Did you vote at the election of November 5, 1918, the last election for Delegate to Congress from Alaska?—A. Yes, sir.

Q. Where?—A. At the last election was Valdez.

Q. Do you remember that there was a primary election held there in May preceding that, a primary election for the nomination of a Delegate to Congress?—A. I don't remember, but it seems to me like there was.

Q. I wanted to know if you voted at that primary election?—A. Well, I think I voted at all of them while I was up there.

Q. You vote the Democratic ticket?—A. The solid Democratic ticket.

Q. At all times?—A. No; not at all times.

Q. Whenever you get a chance?—A. No; I vote some other tickets.

Q. How about the boys at Valdez; were most of them Democrats?—A. I think the biggest majority of them were Democrats.

Q. Isn't it true that most of them belonged to the Democratic Club?—A. I don't know anything about the Democratic Club.

Q. Did you?—A. No, sir.

Q. You didn't belong to it?—A. No.

Q. But you did vote the Democratic ticket?—A. Yes.

Q. Straight?—A. Yes, sir.

Q. You didn't vote for any Republicans at all?—A. No, sir.

Q. You never voted for me at any time?—A. Yes, sir; I did.

Q. When?—A. In 1918, I think.

Q. Where?—A. At Cordova.

Q. But you didn't vote for me in 1918?—A. No, sir.

Q. You did vote on November 5, 1918, at Valdez, for Delegate to Congress, didn't you?—A. Yes, sir.

Q. And you didn't vote for me?—A. No, sir.

Q. Did you vote for the Socialist candidate at that time?—A. No, sir.

Q. You voted the Democratic ticket?—A. Yes, sir.

IKE A. BEAL.

Subscribed and sworn to before me this 6th day of August, A. D. 1919.

[SEAL.]

HAROLD H. HARTMAN,

*Notary Public in and for the State of Washington.*

DEPOSITION OF HENRY S. LABISKY.

HENRY S. LABISKY, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. What is your present occupation?—A. I am not employed.

Q. How long since you had employment?—A. Since being discharged from the Signal Corps of the Army.

Q. When was that?—A. The 23d of this month—the 23d of July, I mean to say.



Q. How long had you been a member of the Army prior to that time?—  
A. Since July 4, 1917.

Q. Where were you enlisted?—A. Fort Lawton, Wash.

Q. Have you ever been in Alaska prior to that time?—A. Yes, sir.

Q. How long prior to that time?—A. Not just previous to that time. I was in Alaska for possibly a year during the last 10 years.

Q. When?—A. I was at Cordova during the construction of the Copper River Road.

Q. That was in 1907 and 1908?—A. No; in 1909, was when I was there.

Q. How long did you remain there?—A. I remained there for almost a year at that time.

Q. What were you doing at that time?—A. I was for a time operating a commissary for the Katalla Co., and later I was agent for the Copper River & Northern Railway at Cordova.

Q. You enlisted here in Seattle?—A. At Fort Lawton.

Q. Fort Lawton is just outside of the city, or within the city, isn't it?—  
A. Yes, sir.

Q. July 4, 1917?—A. Yes, sir.

Q. You hadn't been in Alaska for eight years?—A. Well, for three years I was employed on the Alaska Steamship Co. boat as purser, freight clerk, and purser; purser most of the time.

Q. Running up and down to Alaska?—A. Yes, sir; from Kotzebue Sound to Ketchikan.

Q. You didn't reside in Alaska?—A. No, sir; I didn't reside there at any time.

Q. Where did you reside when you enlisted July 4, 1917?—A. Seattle.

Q. How long had you resided here at that time?—A. Continuously since the spring of 1913, and periodically since 1906.

Q. Did your family live here in the city of Seattle?—A. I am single; no, sir.

Q. You have no father or mother; no family of that kind?—A. Not here.

Q. What business were you engaged in here in Seattle?—A. I was soliciting passenger agent for the Northern Pacific Railroad.

Q. Were you in Alaska November 5, 1918, at the time of election for Delegate to Congress?—A. Yes, sir; at Craig.

Q. How many Signal Corps men were there at that time?—A. I was alone.

Q. You were at that time a soldier in the Regular Army of the United States?—A. Yes, sir.

Q. Regularly enlisted?—A. Yes, sir.

Q. And had gone from Fort Lawton to Craig?—A. No; to Petersburg.

Q. You had gone to Petersburg first?—A. Yes, sir.

Q. And then to Craig?—A. Yes, sir; to Craig.

Q. When did you leave Alaska?—A. July 11, 1919.

Q. And were discharged July 23?—A. Yes, sir.

Q. Does that state now the stations that you were serving in when there in Alaska, Petersburg, and Craig?—A. Yes, sir.

Q. There was no other soldier at Craig but you on November 5, 1918, at the election?—A. No.

Q. You voted at that election?—A. Yes.

Q. Are you a Democrat also?—A. No.

Q. You are not?—A. No.

Q. You are not a Socialist?—A. No.

Q. Are you a Republican?—A. Yes, sir.

Q. Did you vote for me?—A. Yes, sir.

Mr. WICKERSHAM. Stand aside; that is sufficient.

HENRY S. LABISKY.

Subscribed and sworn to before me this 6th day of August, A. D. 1919.

[SEAL.]

HAROLD H. HARTMAN,

*Notary Public in and for the State of Washington.*

#### DEPOSITION OF HARLAN VAN WYCK.

HARLAN VAN WYCK having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. State your name.—A. Harlan Van Wyck.

Q. You are not engaged in the service of the Army at this time?—A. No, sir.

Q. When were you discharged?—A. June 19, 1919.

Q. Where were you discharged?—A. At Fort Lawton.

Q. Where were you enlisted?—A. Fort Lawton.

Q. When?—A. July 28, 1917.

Q. When did you go to Alaska?—A. August 4, 1917.

Q. Where were you stationed?—A. Valdez.

Q. Have you ever been in Alaska before?—A. No, sir.

Q. And all the time that you were in Alaska you were a soldier in the Regular Army?—A. Yes, sir.

Q. You were there on November 5, 1918, at the time of the election for Delegate to Congress?—A. Yes, sir.

Q. Did you vote at that election?—A. Yes.

Q. Are you a Democrat?—A. No, sir.

Q. Did you vote for me?—A. No, sir.

Q. Did you vote for the Socialist candidate?—A. I don't know as I desire to tell.

Q. You are an American citizen, aren't you?—A. Yes, sir.

Q. Aren't you in favor of enforcing the laws of this country?—A. I am.

Q. Why don't you do it?—A. I don't consider it anybody's business but my own.

Q. You don't?—A. No, sir.

Q. If you are put on the witness stand and asked to tell the truth about a matter of that kind, don't you think it is your duty as a good citizen to do it?—

A. I considered myself qualified to vote, and I voted in Valdez.

Q. Suppose the law is that you are not qualified, then what?—A. I happened to see the law that said I was qualified.

Q. You made a law of your own?—A. I happened to read the law of the Territory of Alaska.

Q. You decline to tell whether you voted for the Socialist candidate or not?—A. No, sir.

Q. You didn't vote for me?—A. No, sir; I did not.

Q. And you won't state whether you voted for the Socialist candidate or not?—A. No, sir.

Q. Will you state whether you voted for the Democratic candidate?—A. No, sir.

Q. You will not?—A. No, sir.

Q. Haven't you told several persons that you voted for Charles A. Sulzer, the Democratic candidate for Delegate to Congress on November 5, 1918?—

A. I won't say whether I have, or not?

Q. Think very carefully.—A. You can't prove by me whether I did, or not.

Q. Won't you state, or don't you remember?—A. I don't remember.

Q. You realize that you have been subpoenaed here by virtue of the laws of the United States to testify?—A. Well, I received a subpoena. I guess it was legal in every way.

Q. So far as you know it was?—A. So far as I know; yes, sir.

Q. Let me inform you that there is a severe penalty for your failure and refusal to testify.

Mr. LEEHEY. The witness should also be informed that he need not testify for whom he voted, if he does not want to.

Mr. WICKERSHAM. The witness will be informed by me that the rule is, without he was a legal voter, he has no privilege of that kind.

Mr. LEEHEY. The witness is entitled to take the position as he does, that he was a legal voter, and pleads he is a legal voter, and has the protection surrounding the secret ballot system, provided by the laws of Congress, and of the Territory of Alaska.

Mr. WICKERSHAM. The witness must determine though, whether he is protected by the law, or not, when he takes that attitude.

I want to inform you further, Mr. Van Wyck, that the House of Representatives in this case has passed a resolution specifically applying to this case, authorizing the parties in this case to take this testimony. The resolution is No. 105, passed by the House of Representatives on July 28, 1919, which authorized the taking of this testimony specifically, and the statutory law of the United States also permits it to be done, and requires it to be done, and makes it a crime on your part when you refuse to testify. I want to give you this notice in advance.

A. I don't think I am refusing to testify.

- Q. What I asked you is if you voted for the Socialist candidate Mr. Conolly?—  
A. I said I didn't care to tell.
- Q. Do you know how many boys voted the Democratic ticket at that time?—  
A. No, sir; I don't know whether one of them voted it, or not.
- Q. As a matter of fact, you took a good deal of interest in politics in Valdez around the Signal Corps office at that particular time, did you not?—A. You mean the boys at Valdez?
- Q. Yes, sir.—A. No more than any other ordinary election.
- Q. They took a good deal of interest in all elections, didn't they?—A. I was only there for that one election, I believe. I don't remember whether they did at the other elections, or not.
- Q. So you don't know?—A. No, sir; I don't know.
- Q. Where do you live?—A. Seattle, Wash.
- Q. How long have you lived here?—A. I was here about 15 or 16 years before I enlisted in the Army.
- Q. You were discharged when?—A. June 19.
- Q. Of this year?—A. Yes, sir.
- Q. Do you intend to reside here permanently, from this time on, so far as you know now?—A. So far as I know now, I guess I do, unless something else happens.
- Q. Where did you tell me you enlisted?—A. At Fort Lawton.
- Q. You resided here at that time, previous to your enlistment?—A. Yes, sir.
- Q. Mr. Van Wyck, why don't you want to testify whom you voted for?  
Mr. LEEHEY. We object to that question as being improper.
- Q. Don't you want me to know who you voted for?  
Mr. LEEHEY. Witness is advised by counsel for the contestee—
- Mr. WICKERSHAM. I think counsel for the contestee ought to be very careful about the advice he is giving to this witness.
- Mr. LEEHEY. That if he is a legal voter, he is protected by the law providing for a secret ballot, and if he is not a legal voter, and voted illegally, he is entitled to claim protection on the ground that he need not give testimony which might possibly incriminate himself.
- Mr. WICKERSHAM. Do you advise this witness that the law passed by the Legislature of Alaska changing the United States election law is a legal law?
- Mr. LEEHEY. No; I am leaving it to him to determine whether he is a legal voter or not, but if he is an illegal voter, he is entitled to decline to give evidence which might incriminate himself.
- Mr. WICKERSHAM. That is a privilege that he can take himself, I presume.
- Mr. LEEHEY. That is a privilege he can take himself.
- Q. I ask you again, are you declining to testify?—A. Well, like I said before, it is my own doings. I went there and voted, and they had a secret place to go in there, and mark your ballot, and if I go and tell everybody who I voted for, and everybody wants to know, and I tell them, what is the good of the secret ballot.
- Q. Suppose it be held by numbers of courts and Congress, that the law which you are talking about, which gave you the secret ballot is void, and the Legislature of Alaska had no authority to pass such a law, then what?—A. I understand the election of 1918 was by secret ballot. That is what I voted in that election.
- Q. Why don't you want me to know how you voted? Are you ashamed of it?—A. No, sir.
- Q. Why don't you tell it?—A. I would just as soon tell you who I voted for, but I don't want it to be done as a matter of record.
- Q. Why not?—A. Why not? I don't care to.
- Q. Tell me how you voted, then?—A. We are to understand to tell how I voted now is a matter of record.
- Q. Have you talked to anybody about this matter, about testifying about it?—  
A. I got the notice yesterday afternoon.
- Q. Have you talked to anybody whether or not you ought, or ought not to testify?—A. No, sir.
- Q. You haven't talked to Tom Donohue?—A. I haven't seen him for a year.
- Q. Did you talk with Capt. Foust?—A. No, sir. I got this matter yesterday.
- Q. Who did you talk to?—A. Nobody.
- Q. You read the papers in Alaska that a lot of parties up there refused to testify?—A. I was there at the time.
- Q. Where were you at the time?—A. At Valdez. This is the second time that I have been pulled off to work to testify.

Q. It is not the last time, without you testify, I will promise you that. Didn't you talk to Tom Donohue at the time we had you boys up there before to take your testimony?—A. Tom Donohue was in Cordova at that time, I believe.

Q. Don't you know that Tom Donohue was there, and so was Mr. Dimond?—A. At the time of that trial?

Q. Yes, sir.—A. Tom Donohue was not there, sir.

Q. Sure about that?—A. I am sure.

Q. Mr. Dimond was his attorney and partner?—A. Mr. Dimond was.

Q. Did you talk to him about it?—A. No, sir; I did not.

Q. But you heard statements that he made before the notary public there?—A. Yes, sir.

Q. You were present?—A. I was.

Q. And you approved it, or part of it?—A. What Dimond said?

Q. Yes, sir.—A. Yes, sir; I did.

Q. He appeared for you as well as for the other?—A. I presume he appeared for me. He appeared for the whole bunch. I didn't speak to him personally about it, though.

Q. You take this sort of attitude, that you voted, and it is important to determine by certain questions relating to good government in Alaska, that we find out how you voted, and you won't tell.—A. Yes, sir; I always took the position that I was a legal voter in Alaska at the time I voted, too.

Q. Suppose it should turn out that you were not, then what?—A. That case is different; but I have not seen that yet.

Q. You want that question tested, is that it?—A. Not necessarily; no. I saw the laws of Alaska. I saw what it said about residence there, and I complied with it, and I considered myself a legal voter.

Q. Do you consider a soldier in the Regular Army of the United States who enlisted in the State of Washington, who had never been in Alaska before, and during his term of his being in Alaska was a soldier in the Regular Army of the United States was a legal voter in Alaska?—A. I don't see why a soldier loses his citizenship when he works for Uncle Sam.

Q. I ask you the question, do you think a man of that kind is a legal voter in Alaska?—A. Yes, sir; I do.

Q. Don't you know that the House of Representatives has held in a former case that you, and men under these identical circumstances, were not legal voters in Alaska, don't you know that?—A. No, sir; I do not.

Mr. LEEHEY. Has the House of Representatives specifically so held?

Mr. WICKERSHAM. It has so held.

Mr. LEEHEY. I knew you raised the point in the contest. I didn't know that was it.

Mr. WICKERSHAM. I think you ought to read it fully.

Mr. LEEHEY. I don't care to advise him personally. If he has voted illegally, he can decline to give evidence that might incriminate himself. He has got that right, of which I am very positive.

Mr. WICKERSHAM. Nobody threatens these boys with any sort of prosecution for having voted for Charles Sulzer. He has admitted that he voted. That is the crime, if any crime has been committed. I am not making any point on that.

The WITNESS. Why wasn't my vote challenged at the election?

Mr. WICKERSHAM. I didn't intend to make any challenge to that particular part of it, because I could not accomplish anything if I did, with the force surrounding the administration of justice in Alaska.

Q. Have you talked to Capt. Foust, or any of the men there at Valdez, before you voted last fall?—A. About the way to vote?

Q. No; about your voting?—A. No, sir; I never.

Q. There was no talk about whether the boys would vote, or could vote, or anything of that kind, before you voted?—A. I don't know whether there was or not. There might have been. I wasn't at the polls all the time.

Q. Do you remember having any conversation of that kind, about the point, whether you would vote, or could vote, or ought to vote?—A. It was like any election, a person always asks you to go and vote.

Q. You spoke of looking at the law?—A. Yes, sir.

Q. Who showed them to you?—A. I don't know who it was now. Ever since I have been in Alaska, since that contest of the other election in 1916, there is always a question of legality of soldiers' votes coming up.

Q. You knew that?—A. Yes, sir; I knew that, and satisfied myself. I don't know where it was now, but I saw the compiled laws of Alaska, or some laws up there I saw.

Q. Who exhibited those laws to you?—A. I don't know who did it.

Q. Did Capt. Foust do it?—A. No, sir; Capt. Foust didn't do it. Capt. Foust never spoke a word to me about the election.

Q. Did anybody around the cable office do it?—A. I don't know. I was rooming in the same place Mr. Noaks was, and I had access to his books there.

Q. Did Mr. Noaks?—A. No, sir; Mr. Noaks didn't do it.

Q. Who did it?—A. I looked it up myself in his books.

Q. Are you a lawyer?—A. No, sir; but I can read English.

Q. Have you ever studied law?—A. Only what commercial law I studied at high school.

Q. Now, Mr. Van Wyck, I think you ought to stand aside awhile and look into this matter, and be careful about what you do.—A. I am.

Q. You don't want to stand aside and take any time about it?—A. What do you mean by take time?

Q. Take time whether you are going to testify.—A. You mean this morning?

Q. Yes, sir.—A. Like I said before, I considered myself a legal voter, and I voted under the secret ballot.

Q. Let me be frank with you now, because I don't want to take any advantage of you. The House of Representatives has held that a soldier who is enlisted in the United States Army out in the States, and who has been ordered into Alaska by his superior officer, does not become a legal voter in the Territory of Alaska while he remains in the Army under that enlistment, although he may remain there in the Territory more than one year, and in the precinct more than 30 days prior to the date of the election, and if he votes, his vote is illegal, and will be cast out on the contest.—A. That is what the House of Representatives said?

Q. Yes, sir. That is, the House of Representatives, acting under its constitutional authority to determine the validity of elections. I give you that fair warning. I don't want any advantage taken of you at all.—A. I am not exactly sure though, but I believe the Constitution of the United States gives a man a right to vote, and to vote the way he pleases. I don't know about the secret ballot, but I think it is there.

Q. Mr. Van Wyck, I think you are getting very much mixed up on that, and very far away from the true situation. You are only asked to state whether you voted for Mr. Connolly on that.—A. If I say whether or not I voted for Mr. Connolly, it is very easy to show who I voted for then.

Q. That is exactly what I want.—A. I know it is.

Q. And you don't want to let me know what I want, do you?—A. Not as a matter of record; no, sir.

Q. Why?—A. As I said before, I stand on my rights when I voted up there, on a secret ballot.

Mr. LEEHEY. Does this resolution 105, to which you referred, undertake to require a witness to tell for whom he voted?

Mr. WICKERSHAM. No.

Mr. LEEHEY. As a matter of fact, wasn't it originally so provided, and didn't you have that stricken out?

Mr. WICKERSHAM. It was.

Mr. LEEHEY. It simply requires them to testify under the law, it does not require them to tell who they voted for.

Mr. WICKERSHAM. Just as the law requires, that is all.

The WITNESS. What was this you were trying to tell me, "according to the rulings of the House of Representatives" I had to tell who I voted for?

Mr. WICKERSHAM. I didn't say that.

The WITNESS. That is the impression I got from what you said.

Mr. WICKERSHAM. What I said was that under the laws of the United States you were put on the witness stand to tell the truth about this matter, and it is your duty to tell it.

A. I haven't told a lie yet.

Mr. WICKERSHAM. No, you haven't, but you haven't told the whole truth. You swore that you would tell the truth, the whole truth, and nothing but the truth.

A. If you don't tell a lie, you are telling the truth.

Mr. WICKERSHAM. But you know you simply haven't told it, that is all.

A. Under what law are you going to try to make me tell this, then?



Mr. WICKERSHAM. I don't want to argue it with you. It would not be quite fair. All I want you to do is to tell the truth, the whole truth, and nothing but the truth, as you said you would.

Q. I ask you if you voted for Mr. Connolly the Socialist candidate for Delegate to Congress on November 5, at the election in Alaska.—A. I have already answered that.

Q. No, sir; you haven't.—A. I said I didn't care to tell whether I voted for him, or not.

Q. I know you said that. I stated what the rule is laid down by Congress in this matter.—A. Yes, sir; that we had to testify in this election contest.

Q. I said that the House of Representatives held by its committee, unanimous, and the House of Representatives adopted the report by a legal majority, and it became the law that a soldier who enlisted in the Army of the United States outside of Alaska, and was there, ordered into the Territory of Alaska by his superior officers, though he remained there more than one year, and more than 30 days in the precinct, it didn't, as a matter of law, make him a legal voter in the Territory while he was in that condition. I advise you of that ruling of the House of Representatives in these matters, and you are subject to a penalty for refusing to testify.—A. According to the ruling, was the election law of Alaska null and void, then?

Q. No; the election law is not null and void; but you never became a resident of Alaska.

Mr. LEEHEY. That is according to your construction of it.

Mr. WICKERSHAM. No; according to the construction of the committee.

Mr. LEEHEY. Suppose a witness intended to make his residence in Alaska, bona fide intended.

Mr. WICKERSHAM. That was fully argued to the committee.

Mr. LEEHEY. You know better than I do, because I haven't followed that up; I don't know. I can hardly conceive, if a man was living at a place, and employed by the Army, and actually in good faith intended to make it his residence, and so testified, that Congress would hold that it wasn't his residence. It may have done so. I am not certain what Congress held.

Mr. WICKERSHAM. You haven't stated it correctly.

The WITNESS. Am I to take your word that Congress said that?

Mr. WICKERSHAM. No, sir; you don't have to take my word for anything if you don't want to.

Now, Mr. Leehey, I call your attention to the report of the committee on election, in the Sixty-fifth Congress on the matter of the contest of Wickersham against Sulzer, being House Report No. 839, Sixty-fifth Congress, third session, and call your especial attention to that part of the report, under the head of "Soldier vote," where the ruling is laid down by the committee as I have stated [report handed to Mr. Leehey].

Q. Of course, Mr. Van Wyck, you understand that if you evade the answering of these questions, and refuse to tell whether you voted for Mr. Sulzer, or not, it is a gain of one vote for Mr. Sulzer, don't you?

Mr. LEEHEY. We object to that as being an improper assumption. It is not necessarily a gain of one vote for Mr. Sulzer, whether he knows that.

The WITNESS. I might have voted for Mr. Conolly. It would be a vote for him then.

Q. But you won't tell, will you?

Mr. LEEHEY. He may have voted for a whole lot of other people. The mere fact that there were three candidates would not prevent him from voting for somebody else.

Q. Mr. Van Wyck, did you vote for anybody else than either Mr. Conolly, Mr. Sulzer, or myself, at that election?—A. No, sir; I did not.

Q. Do you feel very proud of being an American citizen, and sitting on the witness stand, sworn to tell the truth, the whole truth, and nothing but the truth, and refusing to tell how you voted at an election under the circumstances? Do you think that is a part of a good citizen?—A. Well, I do, when I don't know as anybody has a right to try to find out.

Q. You have been very much opposed to me in the election, haven't you?—A. Very much opposed to you?

Q. Yes, sir.—A. Well, if you want to know, I have personally; yes, sir.

Q. Most of the boys around the station at Valdez were opposed to me, weren't they?—A. I don't know.

Q. Don't you know?—A. I don't know.

Q. You never heard them say anything about it?—A. I might have heard them say.

Q. You boarded with Mr. Noaks?—A. I roomed at the same house he did.

Q. You know that Mr. Noaks was around making arguments against me?—A. No.

Q. Don't you know that he was appointed to a Democratic office as a reward for the work he did in that connection?—A. I know he was appointed commissioner.

Q. By whom?—A. I don't know.

Q. Don't you know that he was appointed by Judge Brown?—A. No, sir.

Q. That is, don't you know it was done at the request of Mr. Donohue, the Democratic committeeman?—A. No, sir.

Q. Don't you know that Mr. Donohue has built an office for him at Cordova, and Donohue is going to occupy one part of it, and Noaks the other?—A. No, sir. I knew he was building a house.

Q. Don't you know that Noaks was to occupy one-half of it?—A. Yes, sir.

Q. Don't you know he is a good friend of Donohue and Dimond?—A. I know that he knows them.

Q. And you are a good friend of theirs?—A. I would not say that I was a good friend. I know them to say "hello" when I pass them on the street, in a business way; that is all.

Q. You didn't vote for me, did you?—A. I think I stated so, I didn't.

Q. And you did all you could against me at the election?—A. One vote.

Q. Didn't you talk against me?—A. No, sir; I never talked against you at all.

Q. You didn't?—A. No, sir.

Q. But you boarded with Mr. Noaks.—A. I roomed in the same rooming house.

Q. And he was out fighting me; don't you know that?—A. I believe he was. I don't know what he was doing though.

Mr. WICKERSHAM. I am waiting. Mr. Leehey, for you to read that, to see if I stated the law correctly to this witness.

Q. Mr. Van Wick, don't you know, as a matter of fact, that all these boys over there had been instructed by Tom Donohue and Mr. Dimond to refuse to testify that they voted for Mr. Sulzer?—A. At the hearing in Valdez there?

Q. In May.—A. Whenever it was, April or May.

Q. In April; it was in April.—A. Mr. Dimond got up and he read the law of Alaska, the different parts that apply to the men there, and he instructed, just like Mr. Leehey did here, that they didn't have to testify unless they wanted to. That is all there was to it.

Q. And he did that, because Mr. Dimond was there looking after Mr. Sulzer's interest, and was trying to keep the boys from testifying that they had voted for Mr. Sulzer, isn't that true?—A. I don't know what Mr. Dimond's intentions were. I hadn't seen Mr. Dimond previous to the time he was in the courtroom there.

Q. But that was the effect of it, to keep them from testifying, wasn't it?—A. He didn't tell them not to testify.

Q. Listen; that was the effect of it.—A. No, sir; he said they didn't have to testify.

Q. Be careful, because that is in print, and under oath in the record.—A. I mean, he didn't say not to testify, but that we didn't have to tell.

Q. And you are not going to tell?—A. I didn't tell them.

Q. I ask you the question again, if at that election, November 5, 1918, you voted for Mr. Conolly for Delegate to Congress from Alaska?—A. I think my answer will be the same, unless you can show that I have to tell.

Q. But you did vote, didn't you?—A. Yes, sir; I voted.

Q. Now, Mr. Van Wyck, I want to read you the law in relation to this particular refusal on your part to testify after being sworn to do so. I read you section 116, of the United States Revised Statutes. Mr. Leehey, I call your attention to it, too [reading statute as follows]:

"Any person who, having been summoned in the manner above directed, refuses, or neglects to attend and testify, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of \$20, to be recovered with costs of suit, by the party at whose instance the subpoena was issued, and for his use, by an action of debt, to any court of the United States; and shall also be liable to an indictment for a misdemeanor, and punished by fine and imprisonment."

Q. That is the law of the United States with respect to this particular refusal on your part to testify, and I call that to your attention in the presence of your attorney, Maurice D. Leehey.

Mr. LEEHEY. I don't appear as attorney for Mr. Van Wyck. I am appearing in behalf of the contestee.

A. Where does that cover me? I haven't refused to testify.

Mr. LEEHEY. The witness, if he wants to, can doubtless be asked to be excused until a further time.

WITNESS. Oh, it don't make any difference anyway. I voted for Mr. Sulzer.

Q. You voted for Charles A. Sulzer?—A. I did.

Q. On November 5, 1918?—A. I did.

Q. At the election at Valdez, Alaska?—A. Yes, sir.

Q. You voted for him for Delegate in Congress in Alaska?—A. Yes, sir; I did.

HARLAN VAN WYCK.

Subscribed and sworn to before me this 6 day of August, A. D. 1919.

[ SEAL.]

HAROLD H. HARTMAN,  
*Notary Public in and for the State of Washington.*

DEPOSITION OF MAX H. FAUST.

MAX H. FAUST, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. Captain Faust, what is your present occupation?—A. I am a soldier in the United States Army.

Q. How long have you been a soldier in the United States Army?—A. Twenty years.

Q. When were you first ordered to Alaska as a soldier in the United States Army?—A. In 1903.

Q. And have been a soldier in the United States Army at all times since your going to Alaska in 1903?—A. I have.

Q. When did you leave Alaska to come to Seattle?—A. Well, I left Alaska several times during this period.

Q. I am speaking of this particular time.—A. July 25, 1919.

Q. What is the purpose of your coming here now?—A. I am ordered to Camp Lewis.

Q. For what purpose?—A. For orders.

Q. Are you ordered there to be discharged from the United States Army?—A. Probably.

Q. Certainly.—A. It is indefinite yet.

Q. It is indefinite?—A. Yes.

Q. You have been a member of the United States Signal Corps at all times in Alaska?—A. I have.

Q. And are yet?—A. I am.

Q. You have been stationed at Valdez most of the time, have you not?—A. No; my last duty at Valdez is since April 18, 1914.

Q. Were you at Valdez November 5, 1918, at the time of the general election for Congress on that date?—A. I was.

Q. Did you vote on that date?—A. I did.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress?—A. I did.

Q. Where were you enlisted in the Army of the United States?—A. I am not enlisted; I am appointed.

Q. I asked where you were enlisted in the first instance?—A. My original enlistment?

Q. Yes, sir.—A. In New York City.

Q. That was your home at that time?—A. Yes.

Q. Had you ever been in Alaska before that time?—A. Before my original enlistment?

Q. Yes, sir.—A. No, sir.

Q. You have been an officer and soldier in the United States Army ever since that original enlistment in New York City?—A. Except for a period of eight months.

Q. When was that?—A. 1902 to 1903. I also enlisted in Alaska. I claim Alaska as my residence. I wish to make a statement that I enlisted in Alaska, was appointed in Alaska, my family lives in Alaska, and I claim Alaska as my residence.

Q. But although during the period of your enlistment in the Army of the United States as a regular soldier?—A. Yes, sir.

Cross-examination by Mr. LEEHEY:

Q. How long prior to the election in November, 1918, had you been in Alaska continuously?—A. Continuously, or on and off?

Q. I mean at that particular time at Valdez?—A. Five years.

Q. All that period at Valdez?—A. Yes, sir.

Q. When did the particular service by appointment or enlistment under which you were serving at the time of the election in 1918 begin?—A. My appointment that I was serving under at that time began on May 17, 1917.

Q. At what place were you a resident on May 17, 1917?—A. At Valdez, Alaska.

Q. You are married?—A. Yes.

Q. Had your family with you at Valdez at that time?—A. Yes.

Q. And claim Valdez your residence at that particular time?—A. Yes, sir.

Q. At the time when you were appointed to the particular service which you were holding, in November, 1918?—A. I do.

Q. Had you changed your residence in the meantime?—A. I had not.

Q. Where did you intend to claim your residence in November, 1918?—A. Valdez, Alaska.

Q. Where did you intend to claim your residence at the time when you were appointed for that particular service in the Army, in which you were engaged?—A. Valdez, Alaska.

Q. That is where you were commissioned in May, 1917, I believe you said?—A. Yes, sir.

Q. What had you been doing prior to May, 1917?—A. I had been an enlisted man in the United States Army.

Q. And that enlistment expired, or were you discharged?—A. I was discharged in Valdez, Alaska, on May 16, 1917.

Q. When were you then reappointed?—A. I was then appointed on May 17, as a commissioned officer in the United States Army.

Q. And this May 17, when you were appointed, is the date to which you referred in response to my question as to where you were a resident at the time of your appointment?—A. Yes, sir.

Q. I believe you stated that your family was with you at Valdez at that time?—A. Yes, sir; they were.

Q. So you were appointed from Valdez, Alaska?—A. Yes, sir.

Redirect examination by Mr. WICKERSHAM:

Q. You have been under orders of your superior officer at all times, haven't you?—A. All men in the Army are under orders, subject to orders.

Q. If you had been ordered to Nome, you would have gone there?—A. Most decidedly.

Q. If you had been ordered to any place in the Philippines, or anywhere in the service, you would have gone there?—A. I personally would have gone, but would not have taken my family along.

Q. I didn't ask you that. Why are you so anxious to put that in?—A. Because, Judge Wickersham, you are trying to obtain evidence to which you are not entitled.

Q. Why?—A. Because you are trying to prove it was illegal—that I had no right to vote.

Q. I am offering to prove; I am trying to prove the facts.—A. Exactly, and I intend that the facts should be known, and that the facts should not have a different meaning.

Q. You have taken a good deal of interest in politics there, haven't you?—A. No, sir; absolutely no.

Q. You voted at every election?—A. No, sir.

Q. You voted at the primary election in May, prior to the November general election, didn't you?—A. I don't think I did.

Q. Are you sure of that?—A. I am not positive, but I don't think I did.

Q. If the record of that primary election has your name there as a voter, you voted?—A. Presumably. I am not certain whether I voted.

Q. You vote the Democratic ticket?—A. Some times I vote the Democratic ticket, and some times I don't. I have no party politics.

Q. But you didn't vote for me?—A. In which election?

Q. In 1918.—A. In the 1918 election, no, sir. I stated that I voted for Charles Sulzer. I could not have voted for you.

Q. You know Mr. Noaks?—A. Yes, sir.

Q. What was his occupation?—A. Cashier of the Valdez cable office.

Q. He was an enlisted soldier?—A. Yes, sir; he was.

Q. There were 15 or 16 men, maybe, in that office?—A. There are twenty-odd men stationed at Valdez.

Q. How long have those men been there?—A. For various periods averaging from one to five years.

Q. They change frequently, don't they, Captain?—A. Depending on circumstances and the requirements of the service.

Q. Sometimes they are frequently being discharged and sent out of Alaska, and new men brought in to take their places?—A. Yes, sir.

Q. And the new men who come in are members of the Regular Army of the United States?—A. Yes, sir.

Q. And those who go out are sometimes discharged, and sometimes sent into other service in other States?—A. Yes, sir.

Q. There is no certainty that a man is going to remain at any place when he is sent in there as a member of the Signal Corps, is there?—A. No, sir; not positive. He may express his desire to remain there, and the desire be granted.

Q. His superior officers determine that?—A. Determine the circumstances, certainly; yes.

Q. If they want him to remain there, they grant his request, and let him stay, and if they don't, they send him somewhere else?—A. If we consider that his personal request, and desire, will not be in conflict with the best interests of the service we usually grant the request.

Q. It depends on the judgment of the superior officer at all times, doesn't it?—A. As a rule.

Q. At all times, doesn't it?—A. Well, no.

Q. Do you think that the superior officer does not exercise his judgment in the matter at all times?—A. Eventually, the highest authority, of course, is the one that exercises his authority.

Q. I am not speaking of the superior officer; I am not mentioning any particular one, but the superior officer has control of the location of all these men in Alaska, doesn't he?—A. Absolutely.

Q. So they have no residence in Alaska separate and apart from the orders of the superior officer?—A. I can't answer as to that.

Q. Why can't you answer?—A. Because their residence is entirely up to them. They can live where they choose.

Q. Without regards to the superior officer?—A. Absolutely, without regard to the superior officer.

Q. Do you mean to say that you can continue to live in Valdez, although your superior officer orders you to come to Seattle?

Mr. LEEHEY. That is just exactly what you argued yourself, that a man's residence, where one is established, remains.

Mr. WICKERSHAM. You know this witness is hostile.

The WITNESS. I object to that. I am not hostile.

Q. I asked you the question, if you don't know that the rule is that no man in the service of the Signal Corps in Alaska can have a residence at any place, except upon the orders of the superior officer?—A. No, sir; I don't.

Q. Tell us why not?—A. Because he can choose to live where he pleases, as long as he has answered his call of duty, he can live anywhere he wants to.

Q. As officer in the United States Army, do you want it to go into this record that an enlisted man can live wherever he chooses in Alaska, and have his residence there, without regard to orders of the superior officer?—A. If it does not come in conflict with his duty, he can.

Q. Although his superior officer may order him to go to Nome, or Fairbanks, he can continue to reside in Valdez?—A. Wait a minute, that is not what you asked me. A man is subject to orders, absolutely, at all times, but does not need to change his residence on account of those orders. He can go himself and obey those orders, but he need not take his family.

Q. Suppose he has no family.—A. Naturally then, he can't take them.

Q. His location can be changed at any moment?—A. Absolutely.

Q. His family can go to New York City if they want to?—A. They can.

Q. Or remain in Valdez?—A. The family can do as they please, absolutely.

Q. I am not talking about the family.—A. You are speaking about the residence, and not about the man himself, or about his duty.



Q. I asked you about the soldier himself, and not his family. I know the rule about that as well as you do.—A. You are trying to get it a round about way. Ask me the question point blank, just what you want to know, and I will answer the question absolutely, and truthfully, without any evasion whatsoever.

Q. Listen until I can ask it. I asked you as a captain and officer in the United States Army in charge of the cable force over at Valdez, from Valdez to Fairbanks, or what other duty you performed as captain of the Signal Corps Service of the United States Army at Alaska, if you don't know the rule to be that a soldier in the United States Army, who has served in the Signal Corps Service in Alaska, is subject to the commands of his superior officer, with respect to his original location and residence in the Territory of Alaska?—A. He is. That is not what I was asked.

Q. Yes you were.—A. You were asking me about his residence.

Recross-examination by Mr. LEEHEY:

Q. Were you subject to the orders of any superior officer in the Army during the period following your discharge from May 16, 1917, and prior to your appointment on May 17, 1917?—A. I was not.

Q. Where was your residence at that time?—A. Valdez, Alaska.

Q. Where were you personally, at that time? A. Valdez, Alaska.

Q. Where was your family?—A. Valdez, Alaska.

Q. Where were you living with reference to the local situation: Did you have a house, or were you living in a hotel?—A. I was living in a residence at Valdez, Alaska.

By Mr. WICKERSHAM:

Q. You were working on a reservation for the Government as an officer in the Regular Army of the United States?—A. I was.

Q. You mean after May 17?—A. Yes, sir; before also.

By Mr. WICKERSHAM:

Q. Your service was continuous?—A. Yes, sir.

By Mr. LEEHEY:

Q. I believe you stated you were discharged May 17?—A. Discharged May 16, and appointed May 17.

Q. Discharged as an enlisted man?—A. Yes, sir.

Q. You were not an officer until May, 1917?—A. No, sir.

Q. Did you take any part, discuss with any of the men, the election, or take any part in the political campaign leading to the election on November 5, 1918?—A. I did not.

Q. Did you, as a matter of fact, talk with any of your men, or know anything of their political convictions?—A. I did not.

Q. Did you ever vote in Alaska prior to 1918?—A. I did.

Q. Did you ever vote for Judge Wickersham?—A. I did.

Q. When?—A. I don't recall the year, but it seems to me it was in an election held at Seward, Alaska.

Q. You mean it was an election held while you were stationed at Seward?—A. Yes, sir.

Q. Was it in 1916?—A. No; it must have been either 1910, or 1912, I think it was.

By Mr. WICKERSHAM:

Q. Captain, the men took a good deal of interest in politics, didn't they?—A. Not particularly.

Q. They all got out and voted?—A. I can't say as to how many of them got out and voted, but I see from the records of the men subpoenaed, that the majority of them evidently did.

Q. Didn't all of them vote?—A. I don't think all of them voted.

Q. At Valdez, I mean.—A. I don't think so.

Q. Your wife was there with you?—A. She was.

Q. Do you remember whether she voted for Mr. Sulzer, or not?—A. No, sir; I don't.

Q. She never told you anything about that?—A. No, sir; we never discussed that.

Q. Don't you know whether she voted for Mr. Sulzer, or not?—A. No, sir.

Q. Not from anything she said?—A. No.

Q. Don't you know that the men there all have been represented in these proceedings in April, by Mr. Donohue, or Mr. Dimond?—A. Yes, sir; I do.

Q. Mr. Dimond is Tom Donohue's partner?—A. So I presume.

Q. The firm is Donohue & Dimond?—A. Yes, sir.

Q. Tom Donohue is Democratic national committeeman there?—A. So I understand.

Q. Were you present at the time Mr. Dimond made statements before the notary public at that time?—A. Yes, sir.

Q. You heard him say to the men not to testify, repeatedly, not to testify, didn't you, at that time; that we had no authority to take their testimony?—A. I remember him saying that he didn't think that you had any authority and requested that you produce some authority for the taking of the testimony; but I can not recall whether he told them not to testify or not.

By Mr. LEEHEY:

Q. That was when? Give the date of the particular instance to which you are now testifying, approximately the date.—A. In May, 1919.

Q. It was either April or May, I don't know which. I thought it was April.—A. It must have been in May, because I didn't return to Valdez, after having made a trip to San Francisco, until May.

By Mr. WICKERSHAM:

Q. Do you know whether any of the boys there were opposed to me or not at the election on November 5, 1918?—A. I can't recall any particular instance. I have always made it my business not to have anything to do with my men so far as relates to their political feelings or discussions. I have never discussed politics with any of my men.

Q. Do you know whether Mr. Noaks took a very great interest in the election or not?—A. I don't know as he took any more interest than the average man, but I can't say.

Q. Do you know that he spent the whole election day, November 5, 1918, at the polls working for Mr. Sulzer?—A. I know positively that he could not have done so.

Q. Do you know that he has since been appointed United States commissioner by Judge Brown at Cordova?—A. I know that he was appointed United States commissioner by Judge Brown; yes, sir.

Q. Soon after he was discharged from the Army?—A. I think immediately after he was discharged.

Q. Don't you know, as a matter of fact, he was promised the place before he was discharged?—A. Yes, sir; I do. I think the understanding was if he could get his discharge from the Army that he would be given this appointment.

Q. And he got it and was appointed?—A. Yes, sir. He is commissioner now.

Q. Do you know what Donohue & Dimond had to do with that appointment?—A. No, sir; I do not.

Q. You gave no attention to that?—A. Absolutely not.

Q. Now, we tried to get testimony taken in Fairbanks two years ago in the other contest; you had a great deal to do with that?—A. Absolutely nothing.

Q. The boys over there testified that they refused to testify because they had instructions from their superior officer, Lieut. Max H. Faust, not to testify?—A. I think Judge Wickersham is entirely mistaken on that.

Q. I was not there; I am referring to the record.—A. I am referring to the records, too. And you have made this statement, or your representatives made the statement, that my men refused to testify because they were acting under orders from their superior officer, which was absolutely false. The men at Fairbanks, Alaska, telegraphed to me and told me that they were subpoenaed to give testimony in a contest and requested information as to whether or not they were required to appear. I answered them and told them that I had no jurisdiction in the matter whatsoever and suggested that they consult the district attorney as to what they had to do and what they didn't have to do and be guided entirely by his advise. Further than that I have had absolutely nothing to do with the matter.

Q. And you think they did that?—A. I don't know.

Q. You knew, then, that the district attorney had evolved this brilliant theory of voting all the boys because they were going to vote the Democratic ticket over there at Fairbanks, and that he was a Democratic himself?—A. I did not; I don't know to-day who the district attorney was.

Q. Do you object to waiting until I get through with my question?—A. No; I do not.

Q. Do you know that Mr. Ruth was district attorney over there then, don't you?—A. I am not certain; I think it was Mr. Ruth. I think that sounds like the name.

Q. You know that he was appointed by President Wilson as a Democrat?—A. I don't know.

Q. You don't know that he had given the information to the captain at Gibbon, that all the men could vote who had been in the Territory a year, and in the precinct 30 days?—A. I did not know it at that time. I had since read something in the records about it, and the judge gave me a copy of a Congressional Record or something in which the thing was referred to.

By Mr. LEEHEY:

Q. This Mr. Noaks was a soldier employed in the cable service, has been studying law in the office of Donohue & Dimond the last couple of years, hasn't he?—A. Yes, sir.

Q. During odd hours?—A. Yes, sir.

Q. And he has been admitted to the bar?—A. Yes, sir.

Q. During his service in the cable office he was studying law with a view to admission to the bar and to practicing law in Alaska, was he not?—A. Yes, sir.

Q. And Mr. Donohue is the Democratic national committeeman?—A. So far as I know; yes.

Q. And he was appointed to this office before he resigned, or immediately afterwards?—A. Afterwards; yes, sir.

M. H. FAUST.

Subscribed and sworn to before me this 6th day of August, A. D. 1919.

[SEAL.]

HAROLD H. HARTMAN,

*Notary Public in and for the State of Washington.*

#### DEPOSITION OF PRESTON H. NASH.

PRESTON H. NASH, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. State your name.—A. Preston H. Nash.

Q. How old are you?—A. Forty-five.

Q. Where is your residence now?—A. Well, I am at present residing in Seattle.

Q. How long have you been here?—A. I came down here about the 1st of June.

Q. Where did you come from?—A. From Bristol Bay, Alaska.

Q. How long had you resided out on Bristol Bay, Alaska?—A. Well, I resided in Bristol Bay, and the rivers emptying into it, for six years.

Q. Are you a citizen of the United States?—A. Yes, sir.

Q. And a married man?—A. Yes.

Q. Did your family reside out there with you?—A. Yes, sir.

Q. What business were you engaged in at that time?—A. I was teaching Government school.

Q. How long did you teach school out there?—A. I taught school in Bristol Bay and vicinity there six years.

Q. Under what authority?—A. Under the Bureau of Education of Alaska schools.

Q. Where did you reside on Bristol Bay on November 5, 1918, at the time of the general election?—A. At a place called Chogiung, but the post office is Dillingham.

Q. How far are Dillingham and Chogiung apart?—A. They are not apart. Dillingham is a little place, about 4 miles below, and they change the post office up to Chogiung and called it Dillingham.

Q. So that the post office at Chogiung is called Dillingham?—A. Yes, sir; the post office at Chogiung is called Dillingham. They didn't change the name of the post office when they moved it to the lower place.

Q. Sometimes you have your mail addressed to Chogiung and sometimes to Dillingham?—A. It is the same place.

Q. How far is that from the Nushagak polling precinct?—A. Diagonally, I presume it would be 8 or 9 miles.

Q. Where do they hold elections in the Nushagak voting precinct?—A. I think in the schoolhouse there at Nushagak, either in the schoolhouse or store, some place; I think generally in the schoolhouse.

Q. In what commissioner's district is the Nushagak voting precinct in?—A. Dr. L. H. French's.

Q. Dr. L. H. French, he was the commissioner?—A. Yes, sir.

Q. What is the commissioner's district called; is it called the Dillingham district or the Chogiung district?—A. I think it is called the Dillingham district.

Q. The recording district?—A. I think so.

Q. How many voting precincts are there in the Dillingham recording district?—A. Two that I know of; Chogiung, where I live, and across at Nushagak.

Q. Those two precincts are in the Dillingham commissioner's district, and Dr. L. H. French was the commissioner?—A. Yes, sir.

Q. How long had he been commissioner prior to November 5, 1918?—A. Really, I don't know. I think he had been commissioner probably six or seven years. I would not be positive; but it has been a long time there, except one winter he went out on a vacation, and, I think, appointed another commissioner, and when he came back, he took it back again.

Q. He was commissioner during the year 1918?—A. Oh, yes, sir.

Q. He had charge of the laying out of the polling precinct in that recording district for the election of November 5, 1918?—A. Yes, sir.

Q. And the appointment of election officers under the law?—A. Yes, sir.

Q. Do you know what he did in the way of making those two voting precincts in 1918? Do you know whether any notice was given of the holding of the election, or not?—A. There was a notice given in each place.

Q. In each precinct?—A. Yes, sir. I know there was one in ours, and they claimed there was one in the other. I didn't see it. I was not across the river. But they claimed that they had notice.

Q. What about you receiving supplies for the Nousegat precinct, books, and blanks, etc.?—A. Well, I think that he received them on the last mail boat, I think, in July.

Q. At the same time that he received all of them?—A. I think so.

Q. The last mail boat was there in July?—A. Yes, sir; unless he received them on the Nome boat. I don't know whether they would have come from Seattle. That was the only boat that was in there.

Q. You had the supplies in your precinct?—A. Yes, sir.

Q. You are sure about that?—A. Yes, sir.

Q. Did you vote in the Chogiung precinct on November 5, 1918?—A. Yes, sir.

Q. And your wife?—A. Yes, sir.

Q. You voted for Delegate to Congress in both of those precincts?—A. Yes, sir.

Q. Was there an election held in the Nushagak district?—A. No, sir.

Q. Do you know whether or not Dr. French was over in the Nushagak precinct some time prior to the date of the election?—A. Yes, sir.

Q. How long prior to that?—A. Well, I was down to his place on Monday night, I think it was October 7, and Supt. Miller, of the schools, was there. I know this, because I went down to visit him, instead of his coming to visit the school. I went to see him, and he and Dr. French, on the boat on October 8, in the morning, left the Dillingham, the cannery site, toward the hospital, and crossed over to Nushagak on October 8, and from there they went to Naknik.

Q. Naknik is not in that recording district, is it?—A. No, sir; I think there is another commissioner across on the other side; but they went over to get supplies from this Nome boat.

Q. Do you know whether he took the supplies over for the election of November 5, 1918, at the time that he went over in October?—A. No, sir.

Q. He didn't take them?—A. No, sir.

Q. Do you know what became of those supplies; who did take them over?—A. Well, there was none.

Q. To whom were they delivered, do you know?—A. Just a minute; he was there after this boat. He made two trips in October, over to Nushagak.

Q. He made two trips to Nushagak?—A. Yes.

Q. How late in October?—A. It was probably between the 18th and the 22d. I could not tell the exact date, but I know that he went there the second time to go to Naknik. They were getting supplies from this boat at Nome that brought things up there.

Q. Do you know whether at any of those times he took supplies over for the holding of the election on November 5?—A. No, sir; he did not.

Q. Do you know what he did do with those supplies finally?—A. Well, there was a man by the name of Hall—I don't know his first name—but when he went on the second trip over to Nushagak to go to Naknik he took this man Hall. Mr. Hall is the storekeeper there, and he took him to Naknik and got some things for him—potatoes and things—and they came back to Dillingham to the hospital, and when they arrived there the river was just beginning to freeze ice, and the next morning the ice was floating up and down, and they could not cross. They could not cross.

Q. And the supplies never were taken over?—A. The supplies never were taken over. And he gave them to Mr. Hall.

Q. Did Mr. Hall take them over?—A. No, sir.

Q. Who was Mr. Hall?—A. Mr. Hall was a German alien.

Q. How do you know that?—A. I was acting as postmaster in this little place of Chogiung, or Dillingham, during Otto Larsen's absence. He appointed me deputy postmaster, and there came a law, I think, something up to Alaska, to register all alien enemies, and he was one of them, and he registered as an alien.

Q. How do you mean registered?—A. Well, he came over there, and they had a regular form, and he signed his name and, I think, affixed his finger print.

Q. You say those supplies were delivered to him. Did he ever get them over to Nushagak before that election?—A. No, sir. He was in Chogiung at the time of the election. He could not get over.

Q. And there was no election held in Nushagak?—A. No, sir.

Q. Dr. French is a Democrat?—A. Well, I think he is, from the way he talks?

Q. Was he a supporter of mine?—A. No, sir; he was not.

Q. Was he opposing me?—A. Oh, yes, sir.

Q. To what extent?—A. Well, he was electioneering against you. I know that at one time I was down there to his place, and the question came up about the contest between you and Mr. Sulzer, and I told him—I don't know whether we would get into the question of a talk there about it—I told him I thought from some statements that there were some things unfair there, etc., just in a conversation. So finally he up and he said that you were an enemy to the bureau of education and an enemy to the public schools, or something of that kind. Of course, he is superintendent over me there; and I told him that you might be, so far as I knew, but it would have to come from you; that I had read a great many of your speeches and a great many of your congressional reports, and I had never seen anything from you that indicated you were an enemy to the bureau of education.

Q. The short of it is that he electioneered against me and did what he could to defeat me?—A. Yes, sir; I know that.

Q. What did he do?—A. Before that time he was around the village Chogiung talking to the men, because he told me.

Q. Did he talk to you? A. No, sir; he didn't talk to me. There was no use to talk to me about that.

Q. He was commissioner in that precinct, in that district?—A. Yes, sir.

Q. And recorder?—A. Yes, sir.

Cross-examination by Mr. LEEHEY:

Q. Justice of the peace, and the whole thing?—A. I think all that goes to him.

Q. He was also superintendent for the bureau of education, and had charge of your work over there?—A. Yes, sir.

Q. And he was a doctor?—A. Yes, sir.

Q. What official connection did he have with the work as a physician?—A. Well, he doctored the natives.

Q. So that he was the principal man in the community?—A. Yes, sir.

Q. Do you know who he appointed election officers in the Chogiung precinct, in your district?—A. Yes, sir.

Q. Who?—A. He appointed J. C. Lowe, Charles Nelson, and a man named Ownby. I don't know his first name. He was the guard at the jail.

Q. He was the guard at the jail under the deputy marshal.—A. Yes, sir.

Q. What did the other two men do?—A. Mr. Nelson was the cannery winter man, watchman at the cannery.

Q. And the other man?—A. He was a trader.

Q. Were either of them friends of mine?—A. No, sir.



Q. Were either of them Republicans that you know of?—A. I don't know about that.

Q. But they were opposing me at the election?—A. Yes, sir.

Q. None of them friendly?—A. No, sir.

Q. Why didn't he send those papers over to Nushagak precinct in time to hold the election over there?—A. Well, I don't know.

Q. Did he have an opportunity to do it?—A. Well, he was there twice himself in the month of October.

Q. And the election was held November 5?—A. The election was held November 5.

Q. As a matter of fact it was his duty under the law to call the election, appoint election officers, and see that the supplies got there, because the supplies were all sent to him; is that correct?—A. Yes; I think so.

Q. And he didn't send them over?—A. No, sir.

Q. And there was no election over there?—A. No, sir.

Q. How many people live over there?—A. Well, I don't know how many do live there. I made out a kind of a list.

Q. I asked you to make out a list?—A. Yes, sir; I made out a kind of a list; but there are some there I don't know—I know them all, but I don't know their names.

Q. How many names did you put down?—A. I put down 27.

Q. There are others you don't know?—A. There are others I don't know.

Q. Do you think it is safe to say there were 30 voters in that precinct in the Nusagak precinct?—A. Oh, yes; that is, taking it all round, the whole precinct.

Q. Do you know anything about the feeling of those voters over there towards me?—A. Well, I have heard them express their opinion, a great many of them. I am acquainted with them, and I think there were two or three of them against you there.

Q. And the rest were for me?—A. The rest were for you.

Q. Are you quite satisfied from your knowledge and acquaintance with those people that that proportion of those people would have voted for me if the election had been held there?—A. Of course, a man don't know. I can only know from what they said. When it came to voting it might have been different. I know from what they spoke, all but two or three, I never heard them speak either way, but somebody said that they voted against you, only two of them.

Q. Is that why he didn't send those papers over there?—A. That is the way I thought it was. I don't know whether they think that.

Q. The people are of the opinion that you didn't send the papers over and hold that election, because he thought the great majority of the voters would be for me?—A. That is their public opinion about it.

Q. What is your judgment about it, from what you know?—A. To be frank with you—of course a man swearing, you can't swear what a man will do, but—

Q. What is your best judgment?—A. I believe in my heart that that is the reason that he didn't send them over there.

Q. He had an opportunity to send them?—A. He had, twice, and there were people come over to the hospital from Nushagak, that lived in Nushagak, and he was there twice that I know.

Q. And he didn't provide for that election in that precinct?—A. No.

Q. And those people didn't get to vote at all?—A. No, sir.

Q. And your judgment about it is, from your acquaintance with the people, that all but two or three of them over there would have voted for me?—A. That from their talk, it is known as a Wickersham precinct there.

Q. The Nushagak precinct?—A. Yes, sir; the Nushagak.

Q. Your precinct was very largely inhabited by the doctor and his friends?—  
A. Yes, sir.

Q. That is the Chogiung precinct?—A. Yes, sir.

Q. In that precinct there is Dr. French, the commissioner, and there is the United States marshal there?—A. Yes.

Q. And guards, and other officials?—A. Yes, sir; and hospital nurses.

Q. And all those people were against me?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. The men who appointed them to office up there are all Democrats, are they not? Judge Brown is a Democrat?—A. I guess; sure.

Q. Marshal Brennan is a Democrat?—A. Yes, sir. They were all talking that way. When they came around on the boat they were all electioneering for Mr. Sulzer.

Q. Who was around on the boat that you spoke of?—A. Mr. Castler, the traveling marshal.

Q. What was he doing?—A. I think he traveled, comes up there, and picks up the prisoners that they have there, and takes them out, those that are crazy, etc., and takes them down here to the States, or anyone that has a little prison sentence. Do you want the list of these names?

Mr. WICKERSHAM. I think I will ask him to put a list of these names in the Nushagak precinct in the record at this point.

Mr. LEEHEY. I guess it is all right. I don't suppose he is positive whether those are citizens or not and live there.

By Mr. WICKERSHAM:

Q. What do you know about that?—A. I think they are all citizens. They live there. I think they are all citizens, so far as I know.

PRESTON H. NASH.

Subscribed and sworn to before me this 6th day of August, A. D. 1919.

[SEAL.]

HAROLD H. HARTMAN,

*Notary Public in and for the State of Washington.*

The following is a copy of the list of names said by Witness Nash to be voters in the Nushagak precinct:

T. Patten.

Louis England, wife.

John Bergland, wife, and wife's sister.

Mrs. Cassivamp.

——— Lanbberg.

——— Ostertrum, wife.

Hog Harry.

John Noholson, wife.

Louis Hauser, wife.

——— Anderson, wife.

Bert Johnson.

Thomas Douglas.

Gust Tret (Tretcoff), wife.

Fred Paulson, wife.

——— Bluddy, wife.

Thomas Simes.

STATE OF WASHINGTON, *County of King, ss:*

I, Harold H. Hartman, a notary public in and for the State of Washington, residing at Seattle, do hereby certify that the above and foregoing depositions of B. O. Lenoir, James B. Looney, Ike A. Beal, Henry S. Labisky, Harlan Van Wyck, Max H. Faust, and Preston H. Nash were taken before me at the office of John E. Hartman, No. 300 Burke Building, in the city of Seattle, King County, Wash., on the 6th day of August, A. D. 1919, at the hour of 10 o'clock a. m., pursuant to authority of the House of Representatives of the United States to take such testimony, in the case of James Wickersham v. George Grigsby, a contested-election case; that the above-named witnesses before examination were each by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that said depositions were taken down in shorthand by A. D. Williams, a stenographer, and by him reduced to writing, and that the testimony of said witnesses was thereafter carefully read by said witnesses, and subscribed by them in my presence.

In witness whereof I have hereunto set my hand and official seal, this 6th day of August, A. D. 1919.

[SEAL.]

HAROLD H. HARTMAN,

*Notary Public in and for the State of Washington.*

TESTIMONY TAKEN IN KETCHIKAN, ALASKA, DURING THE WEEK ENDING AUGUST 16, 1919, IN BEHALF OF JAMES WICKERSHAM.

Now, on this 11th day of August, 1919, at Ketchikan, Alaska, before Will H. Winston, a notary public, the matter of taking testimony in the contest election case, pending before the House of Representatives of the United States Congress, came on for hearing before Will H. Winston, notary public, in his office, the municipal magistrate's office, in said Ketchikan. The said Winston being present and the contestant being present in person and also by his attorney, John B. Marshall, and the contestee being represented by Attorneys Charles H. Cosgrove and A. H. Zeigler.

The contestant thereupon filed proof of service of a notice of the taking of the depositions of Forest J. Hunt and others; service acknowledged August 7, 1919, by J. A. Hellenthal, agent for the contestee, residing at Juneau, Alaska. Whereupon Forest J. Hunt was called as a witness and sworn.

(Witness sworn.)

Judge WICKERSHAM. Mr. Notary, we are informed that Mr. Charles H. Cosgrove and A. H. Zeigler, attorneys here in Ketchikan, are to appear for the contestee; they have been notified of the time and place of this hearing, but neither of them are here, and while we are very anxious to go ahead with the matter and take the testimony of the witnesses who are now here present, yet we feel inclined to wait a little longer for them. It is now 15 minutes after 11 and we will wait a little while, with your consent.

(Consent given.)

Judge WICKERSHAM. Before the taking of the testimony in this case I desire to exhibit to Mr. Cosgrove and Mr. Zeigler, who are now present, an agreement that I have with Mr. Grigsby for the serving of papers in this judicial division, wherein he has appointed Jack Hellenenthal and John R. Winn as his agents to accept and make service of notices and pleadings in this cause, and wherein I have appointed John B. Marshall and John Rustgard as my agents for the same purpose. And before the taking of testimony I also desire to call attention of counsel for Mr. Grigsby to the pleadings in the case, which I suppose they have also received.

Attorney COSGROVE. We received a copy of amendments to contestant's original pleading with reference to alleged irregularities in the last election, wherein Mr. Grigsby and Mr. Jones were candidates for Delegate.

Judge WICKERSHAM. I call counsel's attention to House Document No. 74 of the Sixty-sixth Congress, first session, which is a full and complete copy of notice of contest in the case of James Wickersham v. Charles A. Sulzer, election of November 5, 1918, and also to the original notice of contest in the case of James Wickersham, contestant, v. George B. Grigsby, contestee, served on Mr. Grigsby at Washington on June 28, 1919, and the proof of service which is attached to it; also Mr. Grigsby's answer addressed to me, and which was received by me, I think, on July 26th, and also my reply to his answer, which is acknowledged in writing by Mr. Grigsby on July 28, 1919. The original pleadings are all here.

I now file with the notary and ask to have it marked as an exhibit in this case the proof of service made at Juneau, Alaska, on the 7th day of August by my attorney, John Rustgard, giving notice of this hearing, this morning, and the names of the witnesses, etc., and notice of acceptance by J. A. Hellenenthal, the agent mentioned in the agreement between me and Mr. Grigsby, which I have exhibited to you. [See Exhibit A.] Now, Mr. Hunt has been sworn before you came in and has to be examined.

#### EXHIBIT A.

*To the above-named contestee and his attorney, J. A. Hellenenthal, Esq.:*

Take notice that before Will H. Winston, a notary public, at his the said notary's office at Ketchikan, Alaska, on Monday, the 11th day of August, 1919, beginning at 11 o'clock in the forenoon of that day, and thence continuing until completed, the contestant, James Wickersham, will take the depositions of each of the following witnesses for contestant, to wit: Forest J. Hunt, Harvey Stackpole, John J. Durkin, Robert T. Graham, William T. Mahoney, the residence of each of whom is at Ketchikan, Alaska, and Taylor Althouse, whose residence is at Charcoal Point, near Ketchikan, Alaska; that the taking of said depositions may be postponed from time to time if such course be deemed necessary by the said notary above named. Dated this 7th day of August, 1919.

JAMES WICKERSHAM, Contestant.

By JOHN RUSTGARD, His Attorney.

Copy of the above notice received at Juneau, Alaska, this 7th day of August, 1919.

J. A. HELLENTHAL.

Attorney COSGROVE. Just before we begin taking testimony, in behalf of Mr. Grigsby, we desire to object to the taking of any testimony at this time for the reason that the notice given us is not reasonable and not taken according to chapter 63 of the Compiled Laws of Alaska, covering the taking of depositions in the Territory. Whether there is a congressional law or any rule of action adopted by the House of Representatives covering election cases in particular I do not know; maybe Judge Wickersham can tell. But it seems to us,

and it appears quite evident from the copy of notice received from Juneau, that this notice from Mr. Wickersham's attorney to Mr. Hellenthal was given on the 7th day of August, 1919, calling for the taking of depositions to-day at Ketchikan. I think we may take notice of the fact that there has been but one boat from Juneau since that date, which arrived yesterday, and we desire to say that on that day we received notice of the persons whose depositions would be taken, giving counsel for the contestee something less than 24 hours to prepare cross-examinations in this case, which we feel is most unreasonably short. Section 1484 of the Compiled Laws of Alaska covering the taking, the manner of taking depositions in the Territory is as follows: "Either party may take the testimony of a witness in the district by deposition, in the cases allowed by this code, before the clerk of a court of record, or other person authorized to administer oaths, on giving the adverse party previous notice of the time and place of the examination, the name of the officer, and the witness; such notice shall be given at least three days before the day of the examination, if the distance of the place of examination from the residence of the person to whom notice is given does not exceed 25 miles, and one day in addition for every additional 25 miles, unless the court or judge thereof by order prescribe a shorter time. When a shorter time is prescribed the order shall be served with the notice." And upon those grounds and for those reasons we object to the taking of any testimony at this time and particularly this witness.

Attorney ZEIGLER. This objection will be to all witnesses in the depositions.

#### DEPOSITION OF FOREST J. HUNT.

By Judge WICKERSHAM:

Q. Mr. Hunt, you may state your name.—A. Forest J. Hunt.

Q. How old are you?—A. Sixty-one last January.

Q. Are you a citizen of the United States?—A. I am.

Q. Where were you born?—A. Newaygo County, Mich.

Q. When did you come to Ketchikan, Mr. Hunt?—A. In March, 1900.

Q. How long have you been a resident of Ketchikan?—A. Ever since that time.

Q. What business are you in, Mr. Hunt?—A. Mercantile business.

Q. Have you been engaged in that business ever since you have been here?—A. Yes.

Q. Were you a member of the Ketchikan Branch of the Council of National Defense?—A. Yes, sir.

Q. Have you been election officer at any election held here?—A. I have.

Q. Were you one of the election officers in Ketchikan, November 5, 1918, at the general election for Delegate to Congress for this Territory?—A. I was judge of election.

Q. By whom were you appointed such?—A. City council.

Q. Is Ketchikan an incorporated town?—A. Yes, sir.

Q. And in incorporated towns are the election officers appointed by the city council?—A. They are.

Q. How long have you known me?—A. I have known you more or less ever since 1885.

Q. Ever since you have been in Alaska, since 1900?—A. Yes.

Q. And you have known Mr. Sulzer how long?—A. Well, I think, I don't recall; I have known him more or less ever since somewhere about 1905.

Q. Where has he resided since he came to this country?—A. Over on the west coast of Prince of Wales Island, what is now Sulzer.

Q. Sulzer post office?—A. Yes.

Q. What has been his business over there?—A. Mining; in charge of Sulzer mine part of the time.

Q. Running a mercantile business?—A. Yes; a store in connection with the mining business.

Q. Was he a married man?—A. Yes; since soon after I first knew him.

Q. And where did his family reside?—A. In Sulzer.

Q. Do you know whether he had any children or not?—A. One child.

Q. Where did he live, out there with his wife?—A. Yes, sir.

Q. They resided there with him to the time of his death?—A. Yes; I believe so.

Q. What is the fact about that?—A. It is general knowledge they resided there.

Q. You knew Mr. Sulzer claimed to have been elected a Delegate to Congress in 1916, when I was a candidate?—A. I did.

Q. You know there was a contest about that matter?—A. Yes, sir.

Q. Did you see Mr. Sulzer on November 5, 1919, the day?—A. 1918.

Q. 1918?—A. I did; I saw him in this chamber.

Q. In the town of Ketchikan?—A. Yes.

Q. Was the election held here in this room?—A. Yes.

Q. Did he appear at the polls while you were serving as an election officer on that day?—A. He did.

Q. Here in Ketchikan?—A. Yes.

Q. In this room?—A. Yes.

Q. The polling place was in this room?—A. It was.

Q. Did he offer to vote at that time?—A. He did.

Q. Just state the facts and circumstances relative thereto.—A. He came in; it was the first time I had met him to speak to him since he came in town. He came in, and after the usual greetings he asked if he had to register to vote here. I told him he did and I asked him if he had been in the precinct 30 days, and he said no, but the Territorial law didn't require that; but I said the instructions under which we are operating do require it. I said the instructions were framed by a lawyer of your party, Mr. Grigsby. The printed instruction I showed him, that a residence was required of at least 30 days prior to election.

Q. You say these instructions were printed, where?—A. Where? On the back of the election instructions, the register, or the—on the register, I think.

Q. Those instructions were the official election records given to you as an officer in that election?—A. Yes, sir.

Q. Did you call his attention to those instructions?—A. Yes; and he read them; and after he read them he asked me if we were going back of the Territorial law, and I told him we were trying to conform to the laws.

Q. Did he demand a right to vote?—A. He asked if we had a blank oath.

Q. What oath have you reference to?—A. The challenger's oath.

Q. You mean an oath to be taken by a voter whose vote was challenged?—A. Yes.

Q. That was a blank provided in the United States laws relative to Delegate elections in the Territory of Alaska?—A. Yes; and he looked it over, and he said, "I guess I don't want to take that," and laid it down.

Q. Did he decline to take the oath?—A. Yes; he did.

Q. Then what became of him?—A. He left the room.

Q. He did not vote in this precinct?—A. No.

Q. How far is it from Ketchikan to Sulzer, where he resided?—A. I think, across the portage, somewhere about 60 miles; I am not sure myself.

Q. What time was he here at the polling place on that day?—A. Somewhere near noon; part of the board was absent at lunch.

Q. Do you know where he went after that?—A. I do not.

Q. Do you know William T. Mahoney?—A. I do.

Q. Who is he, sir?—A. United States commissioner in Ketchikan.

Q. As commissioner he is also recorder in this district?—A. Yes.

Q. And he is also justice of the peace?—A. Yes.

Q. And coroner?—A. Yes.

Q. What other position does he hold?—A. Deputy clerk of the court.

Q. Of the United States district court?—A. I think so.

Q. Where is his office?—A. In the courthouse, Ketchikan.

Q. Do you know one Charles Leask?—A. Yes; I know him. I know the Leask boys. I don't know him well enough to distinguish him.

Q. Did he offer to vote here that day?—A. I don't remember, only as the records will show. I don't know whether a record was made of the persons' names; I couldn't testify positively.

Q. Now, do you know anything about where he is from?—A. He is a resident of Metlakatla.

Q. Do you know what nationality he is?—A. I think he is a Tsimpsian Indian.

Q. Do you know where he was born?—A. Well, I don't know; some of the Leasks were born in British Columbia, and I understand he was.

Q. Now, on the morning of the election of November 5, 1918, was there a group of persons who voted here very early?—A. Some were waiting when we opened the polls.



Q. Dudley Allen and his wife?—A. I think Dudley Allen and his wife and William Semar and his wife.

Q. And Gus Gillis?—A. I don't know. They voted early.

Q. Who is Dudley Allen?—A. He is a traveling man.

Q. He is a commercial traveling man?—A. Yes.

Q. Where does he reside?—A. Juneau.

Q. Did he reside in this city?—A. No.

Q. Had he been here 30 days prior to that election as a resident of this precinct?—A. No.

Q. Nor his wife, either?—A. I don't think so.

Q. Have you made inquiries since?—A. General inquiries here and that they were simply here on business, she was making a trip with him for the first time.

Q. And they were staying at the hotel?—A. I believe so.

Q. You don't know, or do you know, whether they were residents of this precinct?—A. I know they were not residents of this precinct.

Q. What about Gus Gillis and his wife?—A. He is not a resident and never has been.

Q. Had he any home here?—A. No.

Q. Had he been a resident prior to that time?—A. No; not that I know of.

Q. Where do you understand he resided?—A. Juneau.

Q. Had either of them or any of them been in this precinct 30 days prior to the date of election?—A. No; they had not.

Q. What about William Semar?—A. He was a resident of Ketchikan, but he had sold out his residence here about two years prior to that election, and he was interested in a cannery out to Sitka.

Q. Did he have any residence here at that time?—A. No.

Q. How long prior to that time had he been a resident of here?—A. In the neighborhood of two years.

Q. They were in this early group that voted?—A. Yes.

Q. Did he have any home here or place of residence?—A. No home.

Q. How long had they been here prior to the date of election?—A. A few days.

Q. Not 30 days?—A. No.

Q. Had any of these people been in the precinct 30 days prior to the date of election?—A. No, sir.

Q. What do you know about the political partisanship of Dudley Allen, and Gus Gillis and his wife?—A. I can't testify as to that.

Q. Were they known to be Republicans or Democrats?—A. The general report was that they were Sulzer supporters; they came in here with Sulzer supporters.

Q. Who came in with them?—A. William Strong and his wife were here, and William Semar was his son-in-law. They were strong Sulzer partisans.

Q. So far as you know, then, they were supporters of Mr. Sulzer and supporters of the Democratic ticket?—A. I never heard them accused of anything else.

Q. How long had the Allens and Gillises been in Ketchikan at that time?—A. I don't know.

Q. Three or four days?—A. Might have been here a week, or something like that. I do not know. They stopped at the Stedman Hotel.

Q. Now, what was Semar's business?—A. He was interested in a cannery, in charge of a cannery out at Sitka.

Q. Does he reside out there during the year?—A. Yes.

Q. Does he live in Seattle?—A. I don't know whether he lived in Seattle or not.

Q. They didn't have a residence here?—A. No.

Q. Do you know a man by the name of W. Chapman?—A. Yes.

Q. Who is he?—A. Superintendent for the Salt Chuck Mining Co., near Kasaan post office.

Q. Do you know whether he voted here that day?—A. He did.

Q. Did he have any residence here?—A. I don't consider so.

Q. He was challenged?—A. Yes.

Q. What became of his challenge?—A. He swore in his vote.

Q. Do you know where his residence was?—A. I think he could claim a residence out to the mine; I understood he had a house built out there at the mine at Kasaan.

Q. Is that in the Ketchikan precinct?—A. No.

Q. Who challenged him?—A. Bob Oliver, I think.

Q. When he was challenged was there any effort or not to make him fill out an oath?—A. H. C. Strong urged him to fill out an oath.

Q. And was Mr. Strong a supporter of Mr. Sulzer?—A. He was, I think.

Q. Did Mr. Chapman have a wife here in the hotel at that time?—A. He did.

Q. What was she doing here?—A. She was said to be here for medical treatment: she wasn't well.

Q. But his home was over at the mining claim; they had a residence over there?—A. I understood the company furnished a house, just a residence for the superintendent, there.

Q. Have you any information how Mr. Chapman voted?—A. Nothing further than the party he came in with.

Q. And from your information you think he voted for Mr. Sulzer?—A. I am satisfied.

Q. Do you know Mr. Steve Ragan, assistant United States district attorney?—A. Yes, sir.

Q. Where does he reside?—A. Of course he has been here while in office.

Q. Has he got a homestead?—A. I understand he has a homestead near Haines.

Q. Where is his wife now, if you know?—A. I have heard she is up there, she has returned to the homestead.

Q. Did he vote here on that day?—A. Yes.

Q. Was he a supporter of Mr. Sulzer also?—A. I never heard him express himself; I naturally suppose he was.

Q. He is a Democrat?—A. Yes.

Q. Holding a Democrat office here?—A. Yes; and of course, naturally, he was supporting the ticket.

Q. You have never seen their homestead up there?—A. No.

Q. Mrs. Ragan went back there after the election?—A. That was the report.

Q. Did she vote?—A. I think, yes; he was here and she also.

Q. How long had she been here before election day?—A. I don't know exactly.

Q. Ten days or so?—A. She might have been longer than that.

Q. Do you know where Mr. Ragan is now?—A. I do not.

Q. Do you know one J. W. Cochran?—A. Yes.

Q. Did he vote?—A. No.

Q. Did he offer, do you know?—A. He did.

Q. Was he challenged?—A. He was.

Q. Who examined him and challenged him?—A. Bob Oliver challenged him; I think I did most of the questioning.

Q. And he admitted he was a lighthouse keeper at Lincoln Rock?—A. Yes.

Q. Did he swear in his vote?—A. He refused to swear it in.

Q. What did he say about his place of residence when you examined him?—A. That he was working for the Government at the Lincoln Rock lighthouse and he contended he had no other place to vote, that he wasn't in any precinct.

Q. Where is Lincoln Rock?—A. Near Wrangell.

Q. It is not in this precinct?—A. No; it is not.

Q. What do you know about his politics, his vote?—A. I know from remarks he made. I heard he said he intended to vote for Wickersham and after we challenged his vote he went down to Charcoal Point and voted for Sulzer.

Q. Do you know how many precincts there are in Ketchikan commissioner's district?—A. I do not know without going over them.

Q. Let me go over them: Town of Ketchikan?—A. Yes.

Q. Charcoal Point?—A. Yes.

Q. Sulzer?—A. Yes.

Q. Dolomi?—A. Yes.

Q. Hyder?—A. Yes.

Q. Kasaan?—A. Yes.

Q. Craig?—A. Yes.

Q. Beaver Falls?—A. Yes.

Q. Token?—A. Yes.

Q. Loring?—A. Yes.

Q. And Hadley?—A. Yes; isn't there one Shakan.

Q. But those voting precincts mentioned are all in the Ketchikan commissioner's district?—A. Yes.

Q. And Mr. Mahoney is the commissioner and under the law appoints the election officers in all the precincts except the town of Ketchikan?—A. Yes; except incorporated towns.

Q. What do you know about Mr. Mahoney's political affiliations?—A. I don't think he ever discussed them with me.

Q. So far as the public is concerned?—A. It is second hand.

Attorney ZEIGLER. It seems like hearsay?

Judge WICKERSHAM. It isn't, it is general reputation.

By Judge WICKERSHAM:

Q. What do you know about his general reputation as a Democrat?—A. I don't think there is any question of his being a Democrat.

Q. He holds an office under a Democratic judge in this division?—A. Yes.

Q. Don't you know he is a supporter of the Democratic ticket all the time?—A. I never had any doubts of it in the least, it would be very strange if he didn't, I think.

Q. Was he present at the polls on election day?—A. He was.

Q. What was he doing?—A. I don't remember whether he did any challenging or not that day.

Q. Wasn't he present in the polling place here?—A. Yes.

Q. Wasn't he acting as watcher or challenger?—A. Mr. Sharpe did some challenging but I don't remember whether Mahoney did or not.

Q. Who is Mr. Sharpe?—A. Deputy marshal.

Q. In this precinct?—A. Yes; district.

Q. Were they both active around the polls on election day?—A. They had that appearance.

Q. Do you know whether Mr. Mahoney had an automobile out on that day?—

A. I don't know, I didn't see it that day, I was occupied that day.

Q. Do you know whether he brought up any people from the "row" and voted them on that day?

Attorney ZEIGLER. Who do you refer to?

Judge WICKERSHAM. Black Mary.

Q. Who did they bring in, Mr. Sharpe or Mr. Mahoney?—A. All I know they were just simply interested, they seemed to have parties along with them, some would come in with them, sometimes they came in here and the people followed and then the people came in and they came in right after. I wouldn't know how long they had been together or anything about them further than that they came up and voted and so far as Mr. Mahoney is concerned, I don't remember seeing anything.

Q. Do you remember whether any objection was made to Mr. Mahoney's activities by Bob Oliver?—A. I don't know, there was objection when Mr. Sharpe was in the room. I don't know to a certainty whether he made an objection to Mr. Mahoney's presence or not.

Q. Isn't it true there has been considerable criticism in the community?—A. No question about that.

Q. Haven't you heard this criticism?—A. Yes, sir.

Q. Didn't you hear it on that day?—A. Nothing except what people here were—of course, objections were made, I voiced my objection myself to officials acting as challengers.

Q. What official did you object to?—A. Sharpe, Marshal Sharpe.

Q. What objection did you make to him?—A. I told him I didn't think in the face of Mr. Oliver's objection he should do it and he stated there was nothing to prevent it, nothing against it asserting he was within his rights and I told him I didn't think he was.

Q. Do you know when Mr. Sulzer died? Let me call your attention to the fact it was on April 15, somewhere about that date?—A. I haven't the date.

Attorney ZEIGLER. I think it will be admitted.

Q. He came over from his home in Sulzer and died en route?—A. I don't know the particulars in reference to his death.

Q. Do you remember that prior to that day I had left with you notice of contest to serve on Mr. Sulzer when he came here?—A. Yes.

Q. And after the date of his death, I got it from you, and you gave it back to me?—A. Yes, sir.

Q. That was a copy of notice of contest in the election case I had prepared and left with you for service?—A. Yes.

Q. I talked with you first about it?—A. Yes; I read it.

By Attorney COSGROVE:

Q. Who were the other officials on the board with you on election day?—A. Charles Deppe was one of the judges and the clerks were W. J. Morgan, and Wishart, the other judge was it Ira King, I don't know.

Q. The instructions you had governing the cases of voters, the qualifications of voters, they came in printed form?—A. Yes; on the register or tally sheet.

Q. Was there anything on the printed form in reference to the law which had been passed by the legislature?—A. It gave the Territorial law and the last clause said provided he shall have resided in the Territory at least 30 days prior to election, in the precinct.

Q. Was there any reference to section 22 of chapter 25 of the laws of 1915 of Alaska?—A. I think the chapter was quoted.

(Attorney Cosgrove read the following from section 22, chapter 25 of the laws of Alaska, 1915:)

"Any person of the age of 21 years or more who is a citizen of the United States, who has lived in the Territory of Alaska one year and in the judicial division in which he or she offers to cast his or her vote 30 days immediately preceding such election, shall be entitled to vote at all elections held therein: *Provided*, That all idiots, insane persons, and persons who have been convicted of an infamous crime are excluded from such right and privilege: *And provided further*, That no person shall be deemed to have lost his residence by reason of his absence while in the civil or military service of the Territory or the United States, nor while a student at any institution of learning, nor while kept a public charge at any poorhouse or any other asylum, nor while confined in any public prison, nor while engaged in navigation of the waters of this Territory, of the United States, or the high seas; absence from the Territory or said judicial division or city or town wherein election is held on business shall not affect the question of residence, provided he or she has not claimed such right elsewhere. One of the said judges shall keep said registration book, and before any voter shall receive his or her official ballot he or she shall sign his or her name in said book, which signature shall be a statement of said voter to the effect that he or she is qualified to vote under this act."

Mr. HUNT. We had that pamphlet and allowed the first voters to go in and vote, and Mr. Plumley called our attention to the fact of the special instructions of the Attorney General, and after that we permitted nobody who hadn't been in the precinct at least 30 days prior to the election.

Q. Well, now, to the best of your recollection, how many voted prior to your using that rule?—A. Six or eight, I think; wasn't many, this group that stood here when we came.

Q. Had they voted for Wickersham?—A. I don't think so.

Q. That wasn't the reason for the adoption of the rule?—A. Up to that time I don't think we knew we had received it.

Q. Did that have anything to do with the adoption of the rule you mentioned?—A. Nothing; I think when I came in here I hadn't heard of this rule, where one must be 30 days in the precinct prior to the election. This instruction escaped my notice.

Q. Now, Mr. Hunt, you have been Mr. Wickersham's manager for several years?—A. I never considered myself such.

Q. It is generally understood you have represented him in political matters?—A. I have supported Judge Wickersham.

Q. Very actively?—A. Very persistently.

Q. Very energetically and conscientiously?—A. Yes, sir.

Q. And you did so during the last election, did you not?—A. I did.

Q. And very actively on the election in question?—A. On election day I was doing no electioneering.

Q. Didn't you help anybody to vote for Wickersham?—A. No.

Q. Did you advise Mr. Wickersham's supporters during that day?—A. I don't recollect.

Q. Do you remember you didn't?—A. I wouldn't say I didn't say something outside.

Q. Isn't it a fact that you were very active in his behalf in this very room?—A. No; I tried to be impartial.

Q. Isn't it a fact, Mr. Hunt, as representing Mr. Wickersham, you challenged votes that were offered?—A. I didn't challenge a vote, to my recollection, nor refuse to accept a vote that was unchallenged.

Q. You say you knew nothing of this Charles Leask?—A. I don't know whether I do or not.

Q. That proves that you don't?—A. I know the Leask boys.

Q. You don't know how long Mr. Dudley Allen was in town before election day?—A. Only a few days.

Q. How do you fix the time?—A. I am inside working; I don't know exactly.

Q. You don't know how long Mr. Semar and his wife were here?—A. I can't give dates.

Q. Do you know whether Mr. Semar and his wife were residents of Ketchikan during her life?—A. I know very well they were residents at one time.

Q. Do you know whether they gave up their residence when he went into business in Sitka?—A. They sold their residence and it was reported to me they moved away.

Q. Do you know whether they still considered themselves residents of Ketchikan?—A. I am satisfied in my own mind and knowledge that they did not.

Q. How much would it take to satisfy your own mind on that question, would it satisfy the average man?—A. I think it would satisfy you.

Q. What information you have on it is in the nature of hearsay isn't it?—A. It is general knowledge.

Q. And so with reference to Mr. Gillis you don't know how long he was in town before election day?—A. No; not exactly.

Q. You don't know how long Gus Gillis was in town before election day?—A. I don't know just how long.

Judge WICKERSHAM. Think it over and try to give the exact date.

A. My understanding is he just arrived on one of the passenger boats just preceding the election.

Q. That is your impression, you have no knowledge of the fact?—A. He wasn't around town, not likely or I would have known something about it.

Q. You think he couldn't have been here unless you would have known it?—A. Not very likely to be, unless he was hiding here.

Q. Do you know how any of these people voted?—A. They didn't tell me.

Q. Do you know Mr. Semar was offering money on Wickersham?—A. No, sir.

Q. Do you know Gus Gillis was a Wickersham supporter?—A. I heard he offered to bet the other way and the same way with Semar, I don't know how true those statements are.

Q. You say Mr. Chapman was not a resident of Ketchikan?—A. In my opinion he was not.

Q. You didn't know did you that he had a residence in the Revilla Hotel?—A. I know he claimed a residence there.

Attorney ZEIGLER. What did he claim in the oath?

A. He claimed his wife had been stopping there and that he had no home anywhere else while she was there.

Q. Do you know whether Steve Ragan had a home here at that time?—A. No.

Q. Didn't you know Mr. Ragan had a residence here since the 7th day of March and would have had his wife along, except the children were going to school and they didn't want to take them away until school finished?—A. With me I don't think I am very competent to pass on that, I know he was staying here right along.

Q. Do you know where he was staying?—A. No.

Q. Do you know his wife joined him shortly after with the children?—A. Yes.

Q. And that they remained here a long time?—A. A few months, I don't know how long.

Q. Do you know whether Mr. J. C. Cochran had been a resident here for years?—A. I knew he had been here, he admitted that day he hadn't been here within 30 days prior to the election.

Q. Didn't he also claim he was a resident of Ketchikan and claimed Ketchikan was his home?—A. It is a fact to be sure but Mr. Cochran refused to sign the oath after he was challenged.

Q. You explained to him he must be physically here for 30 days prior to election?—A. His vote had been challenged by Mr. Oliver and he admitted and I asked him where he was staying and he said Lincoln Rock Lighthouse and he hadn't been in Ketchikan 30 days, that Ketchikan he claimed was his home. He said of course he had no fixed residence here.

Q. And did he say he was working for the Lighthouse Department at Lincoln Rock?—A. Yes.



Q. Did the board take the view that if a man was away from town 30 consecutive days prior to election he lost his residence, no matter what business he was on?—A. He was challenged, and he wouldn't take the oath—the challengee's oath. It is true there was a question, and, according to the reading of the instructions, my interpretation was he was a voter there; he hadn't been 30 days here.

Q. Whether Ketchikan was his home or not?—A. If he is a resident of here and had his family here, he was not a resident of any place except there.

Q. Suppose a man went over to Prince of Wales Island for 30 days. Would he lose his residence here?—A. A single man?

Q. Yes.—A. If he was there over the 30 days, unless he had some fixed residence, in my opinion he would be a voter there.

Q. And that is the view the board took of all such questions?—A. I didn't think a person had a right to vote at two places.

Q. Even though he had been a resident of Ketchikan for several years?—A. He had never been a resident of Ketchikan; he had been working around here.

Q. But he did live here and called Ketchikan his home for several years?—A. While stopping here, Ketchikan was probably his home; and when he went to Lincoln Rock Lighthouse, there was his home. He never owned a home in Ketchikan.

Q. Some never own a home for another reason. You speak of Judge Plumley advising the board.—A. He simply called our attention to that provision of the instructions.

Q. Judge Plumley wasn't a member of the board, was he?—A. No.

Q. But he sat here all day?—A. No; he was out when we opened the polls. Some other person made some comment about the instructions, and he called our attention to these.

Q. And this was his office at the time?—A. Yes.

Q. He was clerk of the council and also municipal magistrate?—A. Yes.

Q. And your board put considerable trust in him?—A. No; he received the election supplies; that is all.

Q. Your board looked to him for advice and counsel?—A. No.

Q. You put several questions up to him?—A. Asked him nothing at any time, only what instructions there were.

Q. Do you know whether or not Judge Plumley was a strong Wickersham supporter?—A. I don't think he expressed himself one way or another. My impression was he was.

Q. Very strong?—A. I don't know how strong; but, then, I don't see that signifies anything; he simply called attention to those instructions.

Q. I think you will remember a public meeting at which only yourself and Judge Plumley sat on the stage with Mr. Wickersham during his speech?—A. Perhaps; I don't recall. You don't consider those instructions biased instructions in regard to election?

Q. No; no really when right distinctions are made. Isn't it true quite a few votes cast that day were cast by sample ballots?—A. Not that I know of. I don't recall seeing sample ballots used by any voters in here.

Q. Do you remember or no?—A. No; not in this precinct.

Q. You have no recollection?—A. No.

Q. Were any found in the box?—A. I don't know; possibly there was one; it was thrown out if there was.

Q. Your recollection is not clear on the point?—A. It is clear. There was one election where we found a sample ballot. I can't recall now when it was.

Q. Isn't it a fact that most of the members of the election board were Wickersham supporters?—A. Mr. Deppe was not a Wickersham supporter, and it was Mr. Deppe who we generally left the matter to if anybody wanted help about preparing the ballots. I don't recall whether I assisted; I never did unless when Mr. Deppe was present. We were both at a few cases in the booth where they wanted assistance, but I didn't go alone to help anyone prepare ballots. I can't recall the other judges that day.

Q. D. Smith Harris, was he on the board?—A. I don't think he was.

Q. Was Bob Graham?—A. No.

Attorney ZEIGLER. Mr. Winston, have you got the records; they will show the election officers that day?

Mr. WINSTON. I might be able to find them.

(Record read: Charles Deppe, Ira King, F. J. Hunt, Harry Rice, and D. Smith Harris as clerks.)

Mr. HUNT. Neither one of those clerks acted that day; W. J. Morgan and Joe Spath were the clerks and Ira King and Deppe judges, and as a matter of fact, I might add too, they were both Sulzer supporters.

By Attorney COSGROVE.

Q. Who were?—A. Ira King and Deppe.

Q. What about Morgan and Spaeth?—A. Wickersham supporters, I guess.

Q. Mr. Morgan was not a supporter but a shouter?—A. Were all Wickersham supporters shouters?

Q. Most of them. I understand you to say, Mr. Hunt, that most of these questions were put up to Mr. Deppe for solution?—A. I said when there was any assistance called for in the preparation of the ballot.

Q. In the settlement of the qualifications of the voters?—A. As far as that is concerned, I didn't waive my judgment to Mr. Deppe. We didn't disagree on any point as I remember.

Q. You and he agreed all voters were entitled to vote, otherwise you wouldn't have let them?—A. As a general thing I questioned them and Deppe would do some questioning, too, in regard to their residence here.

Q. You and Mr. Deppe agreed on all questions?—A. Didn't have any disagreements.

Q. Your judgments were the same on all questions?—A. Apparently so.

Q. Where a person needed assistance he went to Mr. Deppe?—A. We both did some.

Q. Do you remember how much he did, did he do more of it?—A. I don't remember, but we went together most of the time, he went once or twice.

By Judge WICKERSHAM.

Q. But you had perfect confidence in allowing Mr. Deppe to go?—A. Yes; I thought he would try to be fair.

Q. Fair and honest?—A. I did; I had perfect confidence, even though he was against me.

Q. He would take no undue advantage of a voter?—A. He would not.

By Attorney COSGROVE.

Q. These instructions you mentioned as being printed on the tally book or other records of the election of November 5, 1918, were they received, from whom or by whom?—A. By Judge Plumley.

Q. He was a clerk of what?—A. City clerk.

By Judge WICKERSHAM.

Q. And who prepared those instructions?—A. Prepared and signed by George B. Grigsby, attorney general of the Territory.

Q. In other words, they were the official records and instructions sent to the election board for the opening of the polls on that morning?—A. They were.

Q. With respect to this matter of this group that voted early in the morning, did they vote before the attention of the board was called to the matter of instructions requiring a person to be 30 days in the precinct before election?—A. Yes; I only looked in the pamphlet; the Compiled Laws of the Territory were in pamphlet form. In that, of course, anybody residing in the division was allowed to vote, but the instructions we had diverged from those instructions in the 1918 Delegate election, and they printed those special instructions which will be found on file in the Territory in the various precincts.

Q. And this group or party I asked you about were the first voters that morning before that matter had been called to your attention?—A. Yes, sir.

By Attorney COSGROVE.

Q. Did that pamphlet come along with the balance of the literature, copy of the session laws?—A. It was part of the same instructions we had on the tally sheet.

Q. So when you considered one end of it, you considered the other end?—A. I am not sure whether the pamphlet accompanied this or not; I don't think so.

Q. The point is, when you considered the question you considered the whole question?—A. Yes.

(Recess until 1.10 p. m.)

(1.15 p. m., Mr. Hunt still on the stand.)

By Attorney COSGROVE.

Q. Mr. Hunt, you spoke of Dudley Allen and Mrs. Allen and Mr. Semar and wife and Gus Gillis, I suppose you know they have been residents of Alaska for a long time?—A. I know Mr. Semar has, I suppose Gus Gillis has.

Q. And also Dudley Allen?—A. I don't know about how long Dudley Allen has.

Q. And your objection to their voting is simply based, in your opinion, that they were in the wrong precinct?—A. Yes.

Q. Now, on that day, you say, this morning, that you and Mr. Deppe helped a number of voters to mark their ballots?—A. There were a few. I have been on several boards consecutively and I can't distinguish between them; I think there were a few that day.

Q. Now, do you recollect that among these were a number of Indians?—A. I don't know, there were one or two Indians, but not many.

Q. And you remember those Indians voted for Mr. Wickersham, did they not?—A. I think I only recall two that we helped, they voted for Mr. Wickersham.

Q. You helped them prepare their ballots?—A. Yes; we helped them mark their ballots; yes, sir; they asked to have them marked.

Q. Those Indians were brought in by Mr. Bob Oliver and Dale Hunt, your son?—A. I don't remember Dale brought any in, nor Bob Oliver one, on that day he was in here all day.

Q. Do you remember a conversation with Mr. Deppe, in which he said at that time, on that day, after several Indians had been assisted in marking their ballots by you and him jointly, they had been brought in by Mr. Oliver and Dale Hunt?—A. No.

Q. And he was disgusted with the attitude of you and your followers, and that thereafter he wouldn't assist any Indians; that you could handle your own cattle?—A. Mr. Deppe made no such statement like that, nor nothing like that.

Q. I understood you to say this morning that you had considerable respect for Mr. Deppe as a man?—A. Yes.

Q. In your opinion he is honest?—A. I would trust him, even though against me.

Q. He is a man who stands high in the community?—A. I thought he did.

Q. You don't remember you and he had such a conversation?—A. I do remember he had made no such statement.

Q. You do remember that there were Indians voted, two at least?—A. Two that we assisted, nothing done, just simply an examination at the table and then they went to vote; they wanted to know about marking the ballot, and I said, Deppe you go and help them, and he said you too.

Q. And you remember those two voted for Wickersham?—A. Voted for Wickersham.

Q. How many Indians voted that day?—A. I don't remember, quite a number.

Q. But those are the only two you remember having assisted?—A. Only two; most of them seemed to be capable of doing their own marking.

Q. You wouldn't say now with any degree of certainty whether you assisted any more than two?—A. I can't remember more than two.

Q. You might have assisted a dozen and forgot the other ten?—A. Nothing of that sort.

FOREST J. HUNT.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

DEPOSITION OF JOHN J. DURKIN.

Mr. DURKIN, called and sworn.

By Judge WICKERSHAM:

Q. Mr. Durkin, you may state your name.—A. John J. Durkin.

Q. How old are you?—A. I was born in November, 1852—1st day of November. I will be 57 if I live until the 1st day of November.

Q. You mean 67?—A. Sixty-seven, rather.

Q. How long have you resided in Alaska?—A. A quarter of a century.

Q. Where have you resided?—A. In Juneau and in the Yukon country, down Eagle country, over toward your country two trips, over there one summer.

Q. How long have you lived around Ketchikan?—A. I come to Ketchikan on January 6, 1900.

Q. And have resided here ever since?—A. I have resided here and on the west coast of Prince of Wales. I was a few years on the other coast.

Q. What has been your business, Mr. Durkin?—A. I am a blacksmith by trade; but not being satisfied with that, I took to chasing rainbows—thought I would get rich quicker; I am a prospector and miner.

Q. How long have you followed those occupations around Ketchikan?—A. The whole time I have been here.

Q. Where do you reside now?—A. Over on Gravina Island.

Q. How far away?—A. My place is 4 miles. Gravina Island is directly across the channel from Ketchikan.

Q. Where do you reside over there?—A. Right on the beach.

Q. Have you a home there?—A. I have a home.

Q. Have you land—claims of any kind?—A. Eleven mining claims.

Q. How long have you resided there?—A. On and off for six or seven years—six years about.

Q. Do you know Mr. William T. Mahoney, the United States commissioner in this district?—A. Not literally; I am acquainted with him; yes.

Q. He is the recorder and justice of peace here?—A. Recorder and United States commissioner and clerk of the court, deputy clerk of the court, judge of the probate court.

Q. How long have you known him?—A. Well, now, I couldn't give a definite answer to that; quite a number of years; since he come here first. I think he worked for Pat Gilmore when he first come, and the next time I saw him he was over to Sulzer. Six or seven years ago.

Q. What was his business over there?—A. He was working for Dick Sulzer or Charlie Sulzer, as he was known.

Q. You mean Charles A. Sulzer, who has been a candidate twice for Delegate to Congress for Alaska?—A. That is the same Sulzer.

Q. What was Mr. Mahoney doing over there in his employ?—A. He was storekeeper and bookkeeper, I guess.

Q. And do you know when he came to Ketchikan to reside?—A. I remember when he came to Ketchikan, but I can't tell you about the date.

Q. What was his business?—A. He engaged in the drug business when he come to Ketchikan.

Q. Do you know what business he is in now?—A. He is in the soft-stuff business and a dispenser of justice(?).

Q. What do you mean by soft-drink business?—A. He is a manufacturer of carbonated drinks.

Q. Where, in the city of Ketchikan?—A. Town of Ketchikan. I guess his factory is within the limits.

Q. He manufactures soda water and other drinks?—A. Yes; they call them carbonated drinks, giving a different flavor to make different kinds—sold under different names.

Q. You have known him intimately since he has been here?—A. Yes.

Q. And officially?—A. We have been quite friendly.

Q. When did you cease to be friendly?—A. When he started to impose on me—when he endeavored to exact fees that were not due him, and I resented it. Then he got arbitrary and got defiant. I sent some papers to him to be filed—some mining papers—and instead of filing them, as the law required, he recorded them, and the law had no application in Alaska; it was a general law passed by Congress.

Q. I now hand you this letter, or copy of a letter, and ask you to look at it.—

A. It is my handwriting and my composition. (See Exhibit B.)

(Document handed over to Attorney Zeigler for examination.)

Q. You wrote that letter?—A. Yes.

Q. To whom?—A. To Judge Robert Jennings.

Q. Why did you write to him?—A. I wanted him to know just how Mr. Mahoney was imposing on the holder of unpatented ground here, and that was my first intention when I started to write the letter. When I got warmed up I concluded I would give other information regarding the election, and I did so.

Q. You wrote that letter?—A. Yes.

Q. Are the statements in it the truth?—A. True, true.

Q. What did you do with the letter after you wrote it?—A. After I wrote the letter I took it to a stenographer and paid her \$2.50 for a few copies of it, and the work was so ridiculous I threw it aside.

Q. Did you send the letter to Judge Jennings?—A. Yes.

Q. When?—A. I sent a typewritten copy of that letter.

Q. About the time it bears date?—A. I sent it to him, if I remember correctly, the latter part of December. What date does it bear?

Attorney ZEIGLER. December 31.

Judge WICKERSHAM. What year?

A. 1918, and I received an acknowledgment.

Q. What further happened; did you ever talk with Judge Jennings about it?—A. I did.

Mr. DURKIN (to Wickersham). Have you got the acknowledgment?

Mr. WICKERSHAM. No.

Mr. DURKIN (to Winston). Have you got it, Mr. Winston?

Mr. WINSTON. No.

Mr. DURKIN. I received an acknowledgement, and he made an appointment, or rather requested me in this letter; he said, "I will be in Ketchikan to hold court on or about the 14th day of January; meet me there and make necessary affidavits."

Q. Did you?—A. I met him there; I met him on the morning of the 14th, just after the morning session or arguments had closed, and when he went to his chambers I stepped into the corridor and knocked at the door to his chamber and he came and opened it, and I said, "Judge, I just received your letter, and I called to make those affidavits." Turning his back to me suddenly, he said, "I haven't time to bother with that now." I kind of urged the matter; I was insistent, insistent I guess it is obsolete. I insisted on having a hearing, and as he took a couple of paces from me, with his back to me and me standing near the door, I followed him up, and over his shoulder I said, "I can't lay around here indefinitely; I have got work to do and I must do it; now, you fix a date suitable to your convenience and I will make it a point to be here." Well, he stood there, hesitating a moment, and, as if conscious of offending me, he turned around and said, "I thought you lived in Ketchikan." I said "I do when I have nothing to do, but when I have work to do I am away over on my place." He said, "You call here to-morrow afternoon at 1 o'clock, and if I am not here you go in and help yourself to a chair."

Q. Well, go ahead.—A. Well, when he came I made the necessary affidavits and his stenographer took notes.

Q. Is that all there was to it?—A. Something yet to add. There was one portion of that letter that I wrote might require confirmation by other witnesses so as to leave no doubt in his mind that what I said was actually true; that was with regard to this black whore in the automobile; I said, "Judge, there are three witnesses here; there were more present, but I will select three that will substantiate what I have sworn to. One is Harvy Stackpole, Joseph Uhler, a mining and civil engineer, and the other man is a jailer up to the courthouse; I think his name is Hoffmeier," and the judge said, "yes, Hoffmeier is his name." The judge knew he was employed there. Hoffmeier entailed the white whore who was in the automobile when the black one was in voting.

Q. Were you here on election day, November 5, 1918?—A. I was here.

Q. In Ketchikan?—A. In Ketchikan.

Q. Did you see Mr. Mahoney that day?—A. I did, several times.

Q. What did you see he was doing that day?—A. Well, I saw him seeking wagers on the election in the hotel.

Q. What hotel?—A. Stedman Hotel.

Q. When?—A. On the forenoon of election day, 5th day of November, 1918.

Q. What was he doing or saying at that time?—A. He was looking for wagers; he wanted to bet on the result of the election; he wanted to bet on Sulzer.

Q. What did he do or say?—A. To me?

Q. In your presence?—A. Well, he accosted me, and he says to the gentleman with whom I was talking. "Now, don't take all John's money; John owes me \$6.50, and I want to get that from him," and that offended me. I owe money to no man; no living man can call on me for a dollar. So I gave him a roasting.



Q. What did you say to him?—A. I told him what I thought of him; I told him he ought to be digging sewers instead of being a commissioner.

Q. Let us confine ourselves to the matter of wagers in the hotel; did you hear him offer bets?—A. I saw him put up money.

Q. How much?—A. Put up different amounts with different people; I suppose in all possibly four or five hundred dollars.

Q. Where was this?—A. In the Stedman Hotel.

Q. How long before election?—A. The day of election; on the forenoon of election day.

Q. Who else was there?—A. I might just as well mention some of the men he bet with; George Brown, Bob Heckman, and Sherd Schock. There was present a score or more, some of whom I didn't know.

Q. What was his attitude in the matter, was he talking?—A. He did considerable talking and he seemed like a man excited; just as you generally find partisans, very excitable.

Q. Was he offering to bet people money?—A. Certainly.

Q. And did he bet money?—A. And wanted to make a bet with me.

Q. Did you see money?—A. Yes.

Q. What other partisan acts did you see him doing that day?—A. He was very active with his automobile.

Q. Where?—A. Both through this end of town and the upper end of town and Charcoal Point district. While I was up there I think he made no less than three trips.

Q. Where from?—A. Down this way, from the town of Ketchikan.

Q. Up to Charcoal Point?—A. Yes.

Q. What was he doing with his automobile?—A. Running people to the polls, I guess.

Q. Did you see them?—A. Saw people in the automobile?

Q. Yes?—A. Certainly.

Q. Who did you see?—A. I didn't know most of them; in fact, any of them except Charlie Sulzer.

Q. Where was he going to?—A. Charcoal Point voting precinct.

Q. Were you there at the time?—A. I was just leaving there, on the way down, half a block this side of the voting precinct, when they passed me up.

Q. Was Mr. Sulzer in the automobile with him?—A. Yes, sir.

Q. Going which way?—A. Toward the Charcoal Point voting precinct and then about a half block distant.

Q. You spoke about some women being brought to the polls.—A. On the afternoon or evening of election day he had a character, known as Black Mary in this town, in his automobile, and if my memory serves me well, a white wench along with them.

Q. Who is Black Mary?—A. She is a prostitute, running a house in the tenderloin, I understand.

Q. Where did you see her?—A. Right in front of the polls, and in the auto.

Q. Where were you at the time?—A. Just below the bank.

Q. Who else was in the automobile with her?—A. I think, if my memory serves me well, I think a white woman was with her, and after the black one left the automobile to come to vote this man Hoffmeier entertained the white woman with conversation until they got back, the black one got back.

Q. Where did she come?—A. In here to vote, in this building.

Q. Where was Mr. Mahoney at that time?—A. He was toting her along to vote.

Q. Do you know what Mr. Mahoney's politics are?—A. I think every man in the town knows; I can say positively I know what his politics are.

Q. He is a Democrat?—A. I shouldn't say; people like him are not Democrats; he would run democracy to hades.

Q. Are you a Democrat?—A. Not of the type they are—the machine type existing in Juneau, Alaska.

Q. Does it exist here in Ketchikan?—A. Here, in smooth running order here, I tell you.

Q. Who is part of this?—A. Mr. Mahoney is part of the official conveyance; some of the attorneys, too, Charlie [looking toward Attorney Cosgrove].

Attorney Cosgrove. You are apt to say anything, John.

By Judge WICKERSHAM:

Q. Mr. Sharpe, United States deputy marshal?—A. Yes.

Q. Was he taking an interest in the election?—A. I never saw anything unbecoming of Mr. Sharpe; I saw him on the street, chatted with him, saw him

talking with others; whether he was getting voters or what he had said to other people toward voting I know nothing about it.

Q. Was it about these matters and things you have been testifying to in regard to Mr. Mahoney that you wrote Judge Jennings?—A. Just what I wrote about; yes.

Q. You knew Mr. Mahoney was deputy clerk of the United States district court?—A. Yes.

Q. His office is here in the courthouse?—A. Yes; and he is probate judge and recorder and United States commissioner, as I told Jennings, he is a dispenser of justice in this end of the first district of Alaska.

Q. As a Democrat you felt you had a right to make a complaint?—A. As a Democrat I felt I had a right to complain, and as a Democrat I did complain.

Q. As a Democrat you are telling your story right here on the witness stand?—A. Certainly. Judge Jennings told me when I was making my affidavits: "So many people complain to me about officials, but they tell me: 'Now, don't mention my name,' and I don't know what to do with such complaints." "Well, Judge," I said, "I am not one of those people; any man I make a complaint against, bring him before me; I am always ready to meet him, and if he is not deserving of the complaint I won't make it."

Judge WICKERSHAM. I ask to have this letter of Mr. Durkin's addressed to Judge Jennings, dated Ketchikan, Alaska, December 31, 1918, and signed by Mr. Durkin, filed as an exhibit as a part of his testimony.

Attorney ZEIGLER. As counsel for the contestee, I object to its admission on the ground the letter has no relation to the matter being tried here; it is incompetent, irrelevant, and immaterial.

[Letter marked "Exhibit B."]

#### EXHIBIT B.

KETCHIKAN, ALASKA, December 30, 1918.

HON. ROBERT JENNINGS, Juneau,

*Judge United States Court, First District, Alaska.*

DEAR JUDGE: I wish to bring to your notice some conditions, which, within your jurisdiction, requires your attention. The inclosed record will explain itself. Commissioner Mahoney had a charge of \$6.50 for recording it, which I refused to pay, believing, as I still believe, that the charge was unjust, exorbitant, and unreasonable, and without any warrant of department ruling.

As I do not ask any man to render me service without payment, I offered him a fee as provided, for filing location notices, to wit: One dollar for the first folio and 20 cents for each 100 words or fraction thereof thereafter, together with 10 cents for each index, which he indignantly refused to accept. He even became abusive and told me, among other things, that I could have no more recording done in his office without paying the recording fee in advance. Judging from his discourteous manner I guess the thought never occurred to him that he was a public servant and not a dictator. I concluded at the time to let the matter rest there, but later events have changed conditions and I have resolved to bring it to your attention. I thought first of writing the department at Washington, D. C., but later concluded the proper place to settle our little troubles was at home.

You will first understand I have a grouping record of the claims, known as the "Alaska Tongass group." The law does not require it, but I wanted it, got it, and paid for it, when Mr. Stackpole was commissioner. It is to this grouping record the inclosed notice is to or should apply.

Whether or not there is a ruling providing a fee for the recording of such papers I do not know, but I have two very good reasons for thinking there is not. First, the attorney general, by office ruling, provides fees and the amount for all mine records, and neither he nor his staff, to whom he intrusts most of his business, would submit their intelligence and legal ability to question by a ruling providing a fee for recording an instrument claiming exemption from annual assessment work under an act that does not exempt.

You may think this pretty strong language for a layman. You may think it prompted by ignorance or conceit, but I do not. There is no legal acumen required, for any discerning man of ordinary intelligence, on perusal of the act, can see at a glance that it does not apply to or in Alaska. Alaska is not in the United States. It is merely a purchased possession and bears the same relation to the Federal Government as do our insular possessions. The Federal mining laws, by act of Congress, were extended to Alaska, but only such mining laws as at the time existed.

There was no provision made in the act for the application in Alaska of any additional Federal mining laws that were to be enacted in the future. Alaska requires special legislation. Second, the act or resolution—valid or invalid—was passed for the sole purpose of diverting the labor from annual assessment to something more essential to the swift, effective, and successful prosecution of the war, and not for official graft.

Professional and business men all over the United States and its possessions, whose education and vocational training have made their time invaluable, have given of it freely and patriotically, without compensation other than the knowledge that they were assisting in the extermination of the greatest military evil that ever existed. How very different with Mahoney, whose education is less than mediocre, and whose training has been sadly neglected. With dormant reasoning faculties, the selfish and avaricious propensities of the animal predominating, he sits in otium cum digultate pondering on how productive war measures are in a financial way. I do not criticize his patriotism, but he surely has a queer way of manifesting it.

I have two sons in France—the eldest of whom gave up a professional practice in New York City as a surgeon worth more than \$8,000 per year—fighting for that flag that flies over the courthouse in which Mahoney is domiciled during office hours, while he (Mahoney) endeavors to graft from the old man. Queer world, is it not?

If the act be valid in Alaska, the exemption is granted; then there is no further need of asking for that which we have. The obligatory part of the act is that we serve notice on the recorder of our desire to retain and continue in possession of the claims. Then that is what I would call a notice of retention.

When I mailed my notice of retention I was employed at North Arm, building a stamp mill, and on receiving it Mahoney wrote me as follows, which letter I have in my possession: "Dear John: I have received your proof of labor, etc."

Can it be possible that that man does not know the difference between a notice of retention and a proof of labor? Does he not know that a proof of labor must be accompanied by an affidavit? Does he not know that in the affidavit lies the proof? If he does not know what its propounded in these questions, he is a misfit recorder and commissioner. Or is he knowingly and with intent classifying notice of retention as proof of labor so as to collect the fees provided for the latter? If so, he is dishonest, and his services should be dispensed with. I tried to get a line on how he stood on these questions, but failed. It was impossible. I might as well try to reason in a mental way with a Missouri mule. I have met in my time many men and of various temperaments, but none to equal him.

I do not believe there is this side of Hades a man more arbitrary, more discourteous, more unreasonable, or more autocratic than Mahoney. Why, he has the Kaiser beat a mile.

Let us take a look into his personal conduct on election day. He was a Sulzer partisan. That is his business. I never question any man's politics. Thus far I have taken no active part in politics, but think I will have to begin pretty soon. I am a Democrat and have voted the Democratic ticket for 45 years—when I was where I could vote. Democracy, since its incipency in the United States, has been handed down in my family as a legacy; but not the Democracy of the Sulzers. I know "Dick" and his brother, "Windy Bill," longer and better than any man in Alaska, and of them can say nothing commendable, but a whole lot otherwise. By the grace of Tammany "Windy Bill" held political office for more than 25 years. When he thought he could stand up without assistance in a political way "he bit the hand that fed him." A dog would not do that. But Tammany fixed him plenty. Now he is a political outcast. "Dick" is a chip off the same block, and it will be only a short time until he goes the way of the deposed governor of New York. When he makes his exit the Democratic Party in Alaska will chant no requiem.

But I am digressing. Let's return to the subject. About 10 o'clock election day I entered the Hotel Stedman lobby. Mahoney and perhaps a dozen other men were there. Mahoney held several bank notes in his hand, which he wanted to wager on the election, and did in my presence make a few bets, amounting to \$100 or more. He then approached me and wanted to make a bet, saying at the same time that I owed him \$6.50, and he wanted to get square with me. For a moment I felt like giving him a sound thrashing, but the young blood of days gone by was held in check by the maturer judgment of years. There is no doubt of my ability to administer a physical chastisement, but instead I gave him a tongue thrashing that he will not soon forget. Dumb-

founded under the verbal onslaught, he wilted like a wet rag. That was one time he sowed the wind and reaped the whirlwind. A nice fix for a magistrate. How can people respect such a man? What do you think of him as a dispenser of justice in this end of the first division? Sworn to enforce the law, yet openly and defiantly gambling and by solicitation inducing others to do the same. Does his oath of office imply or impose no obligation? Has it no sacredness? Or is it merely analogous to the Kaiser's treaty with Belgium—just a scrap of paper? How can he conduct a hearing in his court, other than a farce or travesty, if the jurors and witnesses to whom he administers an oath take the same view of it that he does?

On the afternoon of election day he drove his auto down to the tenderloin district and brought up one of the unfortunates—known in the town as Black Mary—to vote. He never stopped to consider the impression her presence would have on, or insult it offered, the sensibilities of the respectable suffrage voters at the polls. He didn't care. Why should he? A United States official on a rampage, that cared naught for his oath of office. With no respect for himself, why should he care for the feelings of others? I wonder what his wife—a good little woman—would think of him if she saw him carting a black prostitute around in his automobile or what excuse he would offer for his conduct.

Such ignominious demeanor is intolerable and inexcusable. When a United States official that should merit the respect and confidence of the community will so degrade himself in the eyes of the public, bringing disgrace and reproach on himself and the office he holds, then I say the man and the office are incompatible, and as a citizen and resident of this community, I respectfully ask his removal. I am not the only one who desires his removal. The large majority of the public are dissatisfied. And why should they not be, to have a bonehead thrust upon them to satisfy the political ambition of an insufferable little creature who has no more respect for the desires of his constituency than a cat has for the life of a mouse. The transportation bill and the fisheries bill are samples of his deception, and this much-discussed exemption bill is a sample of his incompetency. If he had the knowledge or foresight and the desire, just a few words when there was no opposition would make the bill applicable in Alaska. But as it now is, if there were discovered in Alaska and held by location such rich gold quartz and copper properties as are in California, Nevada, Arizona, and Colorado, the country, large as it is, would be overrun with relocators and claim jumpers. A reign of terror would exist, and the courts would be so congested with civil suits over possession, and criminal suits ranging from assault and battery to murder, that the court calendars would not be exhausted or "clean" for the next 10 years. That would be the productive result of incompetency. If I am not careful, digression will become habitual, so I must wake up and return to the main subject. Since you are the appointing power, to you Mahoney is responsible for his every official act and in a great measure for his unofficial conduct. Then, to you the public will look for relief when any act of his is discreditable to the community or brings reproach on the office he holds by your grace. The public here know that you did not appoint him on your own initiative, for he has made that plain on a few occasions by saying, "That he was under no obligation to you; that Sulzer got him the job." Can that be beat for impudence? I desire to ask one question and then we will forget Mahoney, at least, for the present. Does his conduct redound to your credit? No. Then, why not let him out?

I hope your honor will not find my letter tiresome; that you will not consider it a display of passion or vindictiveness, but a conscientious statement of facts as I know them, and that I am actuated by no other motive than a just conception of how an official should deport himself to be a credit alike to the community, the office, himself, and the party that placed him in position. Whether or not he has met these requirements, I respectfully submit to your consideration. Any information you may give me concerning recording fees will be thankfully received.

Believe me sincerely,

Yours, etc.,

JOHN J. DURKIN.

P. S.—There is nothing contained in this letter that I would not have the public know. I reserve right to publish the same if at any time I should so feel disposed and, of course, the same privilege is conceded you.

DURKIN.



By Attorney ZEIGLER:

Q. How long have you lived here, Mr. Durkin?—A. I came here from Juneau and landed in Ketchikan on the 6th day of January, 1900.

Q. You came here in 1900?—A. To this town on the steamship *Derigo*.

Q. You have been living around Ketchikan since 1900?—A. In this vicinity, I have said I lived part of the time, a few years on the west coast of Prince of Wales.

Q. And since you came here in 1900 you stated, I think, that you were a Democrat?—A. Certainly a Democrat, and to-day. I see no difference between a good Democrat and a good Republican; can you tell me the difference?

Q. I don't contend there is any, or a good Socialist. And since that time you have been voting the Democratic ticket?—A. When I was where I could vote I always voted the Democratic ticket if the candidate come up to my expectations. If I thought he could fill the bill and was a worthy man he would get my vote, if not I would cut him out.

Q. Did you ever have any business transactions with Mr. Sulzer?—A. Well, I don't know that I did have any great business transactions. I had some mining property and the Alaska Industrial Co. claimed it.

Q. And Mr. Sulzer was connected with that company?—A. Yes; the Sulzer family owned it but never paid for it.

Q. What was the nature of the business transactions with him?—A. I had some mining property on Beaver Mountain, and I had a mill site on the beach at a place called Shellville, known as Shellville when I located there, but William Sulzer come along and he met Shellhouse, and he said: "You see that big mountain up there?" Shellhouse says: "Yes." "What do you call that mountain?" and Shellhouse said: "That is called Granite Mountain," and Sulzer said: "When the Geodetic Survey comes here have them call that Mount Sulzer." They called this town Sulzer, so they called it Sulzer ever since they located a homestead there.

Q. What is the object of you telling us at this time, in answer to my question, the statement you have just given about Mr. Sulzer wanting to call the mountain Mount Sulzer, and of the town of Sulzer?—A. If my answers didn't suit, why didn't you call me down on it.

Q. I am asking you to explain it.—A. So that you would understand whatever difficulties, if there were any, between the Sulzer family and myself. I located, as I had stated previously, a mill site at Shellville, or Sulzer as it is called now, and the Sulzer people located a homestead and included my mill site. I sent an adverse claim, adverse filing to the land office, and I stood them off. I didn't employ any counsel, I couldn't afford to; I didn't have a nickel. They then brought up additional soldiers' scrip, and they made a relocation of 40 or 80 acres, whatever the scrip would permit, and I bucked them again with another adverse filing, because they included my mill site, and I went down to Charlie Sulzer, when I saw notice of their claim to a town site, and I said, "Charlie, are you aware you have got my mill site included in your town site?" He said, "I didn't know you had a mill site here," and I said, "The hell you didn't; you passed that cedar tree a thousand times where my notice is posted." "Well," he said, "when did you locate it?" I says, "I located that when you were wearing knickerbockers buck East," and he run out of the store into the office.

Q. He ran?—A. Yes; there wasn't much room to run; he made his exit.

Q. Why did he run?—A. Because he wanted to evade me, my tongue. I was going to tell him what I thought of him. In addition to what I have told you, I intended to tell him that he was telling me a lie, that he had consulted Aaron Shellhouse previously and wanted to know of him whether I would care if he took my mill site or not.

Q. You say he ran because he wanted to avoid your tongue?—A. There was only 3 or 4 feet, the counter, as I remember the store at that time, was all along the length of the partition, over close to the partition that separated the storeroom from the office, and there was only a few feet to step from the store. Since then they have rearranged it; I was over there since they rearranged it.

Q. Had you ever had any trouble with Mr. Sulzer before that time?—A. Always friendly.

Q. On this occasion he ran out of the store because of fear of what you were going to say to him?—A. I suppose so; he wanted to get away from me, he didn't want to hear me.



Q. Will you state whether or not Mr. Sulzer knew what you were going to say to him?—A. I guess so. Charlie was a sort of a snake in the grass; Charlie knew a good deal and yet didn't know much.

Q. The fact he is dead makes it very hard to dispute anything that is said now?

Judge WICKERSHAM. I object, because it is not cross-examination. Mr. Zeigler has made up this controversy himself.

Attorney ZEIGLER. I am just going into this trouble which he related himself that he had with Mr. Sulzer; I want to find out—

Attorney MARSHALL. He said nothing about trouble; you have brought out all the trouble.

Attorney ZEIGLER. It is perfectly proper in this examination to get his state of mind, the man who is testifying.

By Attorney ZEIGLER:

Q. I understand then that you had considerable trouble over at Sulzer with Mr. Sulzer?—A. I never had any trouble with Sulzer, except that matter when I told him when I located that ground because I knew he was telling a lie. I said I located it when he was wearing knickerbockers back East, and he made a hurried exit.

Q. And because of that episode you said Mr. Sulzer was a snake in the grass?—A. Not because of that.

Q. You never had any other trouble with him?—A. I didn't, but other people did. What do you think I am—a milepost without any powers of circumspection or observation? Do you think I don't notice what goes on?

Q. I imagine you are pretty observing.—A. At times.

Q. Now, Mr. Durkin, were you at any time a candidate for the office of United States commissioner at Ketchikan?—A. I don't remember being a candidate.

Q. Did you ever put in an application?—A. I never did.

Q. Did you ever talk with anyone about it?—A. I did.

Q. To whom?—A. Charlie Cosgrove.

Q. To anyone else?—A. No.

Q. No one else?—A. No; that is a good many years ago, that is, when Jennings was first elected or got his appointment.

Judge WICKERSHAM. About six years ago?

A. About six years ago.

Q. Judge Jennings had the power of appointment for this position?—I believe so.

Q. And will you state why you went to Mr. Cosgrove instead of to Judge Jennings?—A. Because, I don't know exactly, I thought Charlie had quite a pull in this end of the first division and Charlie told me he didn't think Stackpole would be removed. I think he asked me if I would take the commissionership in Petersburg. I said "No; I don't want to leave Ketchikan; my interests are here." I think that talk occurred between us.

Q. And you wanted that position if you could get it?—Yes; I would take it if I could get it, and who wouldn't take it, and who would object to a sinecure?

Judge WICKERSHAM. Certainly no deserving Democrat would.

A. No.

Q. As a matter of fact, Mr. Durkin, they sometimes fight over sinecures?—A. When it requires fighting cut me out; I am no fighter. I quit the ring and passed in my gloves a long time ago. If you met me about 25 years ago I just as soon fight as eat.

Q. After you had had this talk with Mr. Cosgrove, seeking this appointment, Mr. Mahoney was appointed, wasn't he?—A. Years after; I never spoke to Mr. Cosgrove a second time. Never spoke to anybody a second time about it.

Q. At that time Mr. Stackpole was the incumbent in the office?—A. Yes, sir.

Q. And when Mr. Stackpole retired from the office or was removed, Mr. Mahoney was appointed?—A. I don't know anything about that. I don't know whether Mr. Stackpole retired or was removed, and I don't remember exactly when Mahoney was appointed.

Q. Do you know whether anybody acted as commissioner except Mr. Mahoney and Mr. Stackpole since Mr. Stackpole was in office?—Yes; I think Mahoney went away on a vacation and Dr. Storey acted as commissioner for a little while, a few weeks or a month, maybe two months.

Q. You don't remember, then, whether or not Mr. Mahoney's arrival into the office was after Mr. Stackpole?—A. No; I do not.

Q. You remember about this substitution, clearly, of Dr. Storey?—A. That happened this spring; that was during a vacation.

Q. Now, Mr. Durkin, you have testified about a letter that has been introduced over our objection, that you wrote to Judge Jennings; what was the primary cause for you to write this letter?—A. The prime cause was this: I felt satisfied—remember I am no lawyer—I felt satisfied in my own mind that that act or resolution passed by Congress cutting out assessment work for the years 1917 and 1918 on unpatented mining claims had no effect in Alaska. I even went down to Seattle and I went to work for \$8 a day, and I threw up that job worrying about this place, that somebody might jump it. You have my prime motive.

Q. Just state what happened after.—A. Then I wrote to Jennings for information, to see whether he would confirm my opinion or not, and he told me when he took my deposition, he says, "Mr. Durkin, I agree with you; you are right. Remember, now, this is my private opinion, it is my private opinion," he repeated it to me two or three times to impress it upon me that it wasn't a public opinion. I said, "I am aware of it, Judge; if it come before a court then you could express a public opinion." I have told you. I wrote for information and I got it. He told me this law, if it had an application to Alaska, only requires the filing of those papers and not the recording of the papers, and there is no fee provided for them. He said, "We have a fine young man as commissioner in Juneau." I think he said his name was Burton, and when I received your letter I immediately sent for him. He told me that he had written to the department regarding fees for the filing of those papers and the department, the Department of Attorney General, they never answered his letter. "Well," I said, "why should they?" If they should answer his letter and tell there was no fees to be charged and that the law had no application, if there was rich mining ground like down in the States the people would be murdering each other. They used a little discretion, a little wisdom, when they didn't answer his letter. He says if Mr. Mahoney thinks you owe him anything let him sue, and in that way, to me, that he could give a public opinion. Those are Jennings's words to me.

Q. The reason for writing this letter was owing to some difficulty that you had with Mahoney over recording?—A. I never had no difficulty before or since with Mahoney; our only difficulty was over filing of these papers, and he recorded them and the law requires filing and he wanted to charge me \$6.50; I had a group of eight claims and an odd claim at that time and he wanted to charge me \$1.50 for the first claim and then a half dollar for each additional claim in the group besides for one odd claim \$1.50 making \$6.50. He recorded those as proof of labor. I said I sent no proof of labor; proof of labor must be accompanied by an affidavit. How could I make an affidavit that I performed labor when I did not perform labor? This act don't require performance of labor, consequently requires no proof.

Q. That is the same act you believe is no good?—A. I am positive about it.

Q. Did you do work on your claims?—A. Me; I immediately went on my claims and I am there now.

Q. Did you do work that year?—A. Yes.

Q. You didn't file proof of it?—A. No; never filed proof. I have been on claims 20 years and never filed proof of my work. Properly a proof of labor does not furnish prima facie evidence that the work has been done. I will put it plainer, if I filed a proof of labor and somebody comes and jumped my claim, I would still have to prove to the court that I did work. The proof of labor wouldn't furnish any evidence.

Q. You never have filed proof of labor?

Judge WICKERSHAM. I want to make further objection to this discussion of the legal proposition. I didn't ask anything about his opinion in respect to his mining claims and it doesn't add anything serviceable in the case.

Attorney ZEIGLER. This is the party [indicating Mahoney] that the gentleman is testifying against. I am not fighting Judge Mahoney's battles. I am getting at his motive and feelings.

Mr. DURKIN. I believe I will be a little conservative in my answers. I think they are taking a whole lot of your 40 days, Judge.

Attorney ZEIGLER. Answer this question yes or no: Owing to the fact that there was some difficulty about some recording fees with Judge Mahoney there arose some feeling in your mind against him, did it not?

Mr. DURKIN. Well, Mr. Winston, can other men in this room be put on the stand?

Judge WICKERSHAM. No; you are the only witness on the stand.

Attorney ZEIGLER. You are the only witness.

Mr. DURKIN. No.

Judge WICKERSHAM. Just a moment, if you want to make any explanation. Mr. Zeigler is a very astute lawyer and if there is any explanation to the remark he can make his own explanation.

Mr. DURKIN. As you say, owing to the fact a little dispute between us over those fees, you want to know if that actuated me in reporting him to Jennings?

Attorney ZEIGLER. No; read it again.

[Question read again by stenographer.]

Mr. DURKIN. No; is that direct enough?

Q. And outside of this time there was never any pretension of any trouble between you and Judge Mahoney?—A. Never.

Q. Never any at all?—A. Never.

Q. And you had no occasion for any animosity or illfeeling toward Judge Mahoney?—A. No.

Q. Absolutely not?—A. Absolutely not.

Q. Then, after that episode, which you say caused no illfeeling on your part, you wrote the contents of "Exhibit B," consisting of 10 pages, to Judge Jennings, complaining of Judge Mahoney, did you not?—A. Yes; as a matter of information; I was not actuated by any malice or anything else.

Q. I understand you, then, Mr. Durkin, you were not actuated by malice or illfeeling?—A. Malice nor illfeeling.

Q. Permit me to ask you if you were not influenced or actuated by some other person in writing this letter?—A. I am my own keeper, I am under no man's influence.

Q. Now, later on, when Judge Jennings came down here, you went to see him regarding this letter?—A. By appointment.

Q. At that time Judge Jennings told you, as you have stated, that many people come to him with complaints against officials, and if you had anything to charge or any charges to bring against Judge Mahoney to make an affidavit to them and he would consider them?—A. Not in those words. So many people complain to him about officials, but they all tell him, "Don't mention my name"; that was what Judge Jennings said. I said, "When I make a complaint, mention my name; bring the people before me."

Q. And you offered Judge Jennings—A. I made the affidavits.

Q. That he requested?—A. Yes.

Q. He requested you to make the affidavit?—A. Yes; he requested.

Q. And acting on that request, you did so?—A. Yes.

Q. And in those affidavits you made numerous charges, did you not?—A. Certainly I made some charges; well, what of it?

Q. Will you state what they were?—A. I thought I did state right along. You will find them here [indicating Exhibit B.]

Q. You didn't put all this in your affidavits?—A. Not all; no; but I put everything that Jennings asked me from that letter; that is the original, too. Jennings asked me questions from the original and I answered them all just as they are written.

Q. We haven't the affidavits here, Mr. Durkin. I would like to have you tell, as near as you can, just briefly what the affidavits stated; don't hesitate.—A. I will tell you; now, what do I care about it, what any man knows? I told Jennings regarding Mahoney, about this gambling business, and you have already heard that; it is repetition again. I told him about bringing Black Mary here to vote. I don't think I told him about the other prostitute in the wagon, in the automobile; she was there all the same; and I mentioned the names of those three men to substantiate what I have sworn to. I told him more; if I looked over that I could tell you more. I said there don't seem to be much respect for Mahoney in this town; you may judge of what the people think of him by what was put on the screen in the Liberty Theater; there was put on the screen there, "Moonshine at the Ketchikan Soda Works"; he is the manufacturer of soda at the Ketchikan Soda Works. He said, "Why, some people pay for advertisements of this kind." I replied, "Yes; but Alaska was a dry Territory, and since it was I didn't think anybody would pay for advertising like that." The people that run the shows must please the people if they want the people's patronage, and to please the people they put this thing on the screen, "Moonshine at the Ketchikan Soda Works," and that certainly did, because the house was full the next night. But I said I don't know whether Mahoney handles booze or not; I am a wet man.

Q. Do you think if he were selling moonshine in his soda works he would advertise in the moving-picture show?—A. I know he wouldn't; he didn't; Jack Barbour put that on to please his patrons, because those patrons had no use for Mahoney.

Q. What else in the affidavits?—A. As you had deflected me temporarily when you asked me those questions [Durkin takes the letter and looks it over]. You see here one place I say I do not criticize Mahoney's patriotism, but he has a queer way of manifesting it. What do you know about that?

Q. I am asking you if that is all the charges you made in these affidavits.—A. I made every charge in here, every question by Jennings.

Judge WICKERSHAM. In where?

Mr. DURKIN. In this letter.

By Attorney ZEIGLER:

Q. The contents of Exhibit B?—A. Call it what you wish.

Q. And you made all those charges in the affidavit and swore to it?—A. Every question he asked me as to this exhibit I answered in the affirmative; I stood on oath.

Q. And you swore to the affidavit, didn't you, before a notary, who took your oath?—A. The stenographer, I guess, or judge; seems they were both swearing.

Q. Everything you said in the affidavit was true, Mr. Durkin?—A. Everything I said in the affidavit is true, and everything I told you here is true.

Q. Then after signing that affidavit why did you write a letter to Judge Jennings retracting everything you had said in the affidavit?—A. I did not retract. This was what I wanted to get in. I wrote a letter the morning I left here and gave it to Jennings on the street. I told him everybody seems to be down on the under dog. I first thanked the judge for the kind interview, or audience, and it wasn't kind by any means, but there was no use me kicking. I didn't expect any relief and I didn't get any relief. I made my complaint and I knew it would lay there, but it is always best to be nice. In that letter—a short letter, one-half page on hotel paper—I said I thanked him for his kind audience, and I says, "Everybody seems to be down on the under dog, and now if Mahoney will apologize to me as publicly as he offered the insult in the hotel I will willingly withdraw those charges against Mahoney." I wanted to show that I was not actuated with malice.

Q. Was not actuated by malice?—A. If I was actuated with malice I wouldn't have consented to do it. He might have gone down on his knees; it would have availed him nothing. I am very glad you asked me that question. There was no maliciousness in it.

Q. Now, Mr. Durkin, didn't you state in that letter to Judge Jennings this: You realized the motives of the people connected with those charges and that you were not going to be made the goat for them?—A. No, sir; I did not. Charlie read the letter. Put him on the stand here to contradict that.

Judge WICKERSHAM. I object to any interrogation about this letter. Have you got this letter, Mr. Zeigler?

Mr. COSGROVE. No.

Mr. DURKIN. It was just a letter intended to show I wasn't actuated by malice; that is the head and tail of it.

By Attorney ZEIGLER:

Q. And that is the reason you wrote the letter?—A. To show I was not actuated by malice. If I was, a man who would do me an injury, I couldn't forgive him and be malicious toward him, because the two can not exist together—forgiveness and maliciousness. They are incompatible.

Q. Now, Mr. Durkin, at the time you gave this letter to Mr. Cosgrove, didn't you?—A. I had Mr. Cosgrove read it. I showed it to him because I knew he was a friend of Mahoney's and thought, expected it would reach Mahoney that I was not malicious.

Q. And you had a little conversation with Cosgrove about the matter?—A. Yes.

Q. And you said to him, substantially, that you realized the motives of the bunch that were making this fight against Jennings and Mahoney and you didn't care to be identified with them; think that over.—A. I think I made a remark something of that kind. I believe that I intimated or said that some were objecting to Mahoney without having any good reasons for doing so; that they were actuated by malicious motives. I didn't believe they had any proof or reasons, and I didn't consider that they knew anything about his business as commissioner, so I wouldn't be connected with them.

Q. You didn't want to be identified with that bunch?—A. That is right. That again shows I was not malicious. Keep on that line; that is very good.

Q. You can give other explanations along that line?—A. I am here to answer your questions.

Q. You said in answer to Mr. Wickersham that on the day of election you saw Judge Mahoney carrying Sulzer out to Charcoal Point?—A. I saw Sulzer in Mahoney's gas wagon going up to Charcoal Point, and others in it. He made two or three trips and passed me going up on the road.

Q. May I ask you why you testified at this hearing to the facts you saw?—A. I was seeking that question. I think I answered that question. You refresh your memory.

Q. Mr. Durkin, Mr. Sulzer was a candidate for election on that day?—A. Yes; and he was elected, too.

Q. And in your opinion, wouldn't he be just as interested as Mr. Wickersham?—A. I think he would be more interested than Mr. Wickersham; but I think honesty counts. I don't think Mr. Wickersham would want to vote where he wasn't entitled to vote; and Sulzer, I understand, got his vote in where there was no objection; where there were two men on the same party, two men that the machine could handle. He was turned down here.

Q. Were you present at the time?—A. No; but I heard Hunt testify.

Q. And Hunt was one of Wickersham's strong supporters?—A. Mr. Hunt likes a square deal.

Q. You wouldn't call Mr. Hunt a partisan at all?—A. No; I wouldn't call Mr. Hunt a partisan.

Q. Notwithstanding, do you think there is anything strange about the fact that Mr. Sulzer rides around with Mr. Mahoney on that day in his automobile?—A. I didn't say anything strange; I simply said I saw him. Does that satisfy you?

Q. If that is your explanation.—A. If you want to know more, you will have to ask Mahoney, because Sulzer is dead.

Q. You don't know, Mr. Durkin, as a matter of fact, whether or not Sulzer was at the polling places in Ketchikan several times that day?—A. No; I suppose he spent a good deal of his time in the hotel; Charlie was inclined to be a little lazy, ever since I first knew him.

Q. And yet he would—A. And he could wear out the seat of a pair of trousers quicker than he would a pair of shoes.

Q. And yet manifest more interest than Mr. Wickersham in the election.

Judge WICKERSHAM. I don't think Mr. Sulzer ought to be discussed in this manner.

Attorney ZEIGLER. I do not believe he ought to be referred to as a snake in the grass.

Mr. DURKIN. Maybe I am to blame; they are trying to have a little fun with me, and I think in the end they will be the goat.

By Attorney ZEIGLER:

Q. You have been laying considerable stress on the fact that Judge Mahoney made some bets on election day—attempted to?—A. Yes.

Q. If you would see the ordinary citizen around town, you wouldn't consider it any crime to bet on election?—A. No.

Q. You bet on it yourself?—A. Yes.

Q. You bet on Mr. Wickersham?—A. Yes; certainly; that question I wasn't obliged to answer, but I will do it to accommodate you.

Q. You certainly were obliged to answer. And Judge Mahoney won one of your wagers, didn't he?—A. No, sir; wagers are never won while a contest is pending.

Q. He got the money?—A. I don't know about that; the stakeholder is responsible, some one told me; I didn't bet with Mahoney.

Q. Outside the fact that Judge Mahoney was holding a judicial office at that time, there was no greater degree to his crime than to yours?—A. I am no angel; no; Mahoney is employed to suppress gambling; he is encouraging it.

Q. You have been talking about the Democratic machine; did you ever see a political party that didn't work very vigorously for the success of their candidates?—A. I have seen political parties work very vigorously and very honorably, and not here in Alaska.

Q. You were working very vigorously for the success of the Wickersham party?—A. My letter will answer that question; I say in it to Judge Jennings, "Thus far I have taken no hand in politics, but think it about time to begin."



Q. That was on December, 1918?—A. 31st of December.

Q. 1918?—A. That was after election.

Q. And you had no interest?—A. No active part.

Q. Up to December 31 you had taken no active part or interest in the elections in Alaska?—A. The election was held on the 5th of November; I took no active part in it; stretch the date to December; what good does it? The election was over when the polls closed.

Q. At the election the 5th day of November you voted for Mr. Wickersham?—A. That is an affair of mine.

Judge WICKERSHAM. I object, because I didn't ask him anything about that.

By Attorney ZEIGLER:

Q. Leaving out how you voted, you did bet your money on Mr. Wickersham?—A. When I bet I bet to win.

Q. You are not trying to create the impression that you didn't vote for Mr. Wickersham?—A. That is for me to know who I voted for. I have answered most of your questions.

Q. Your answer is you did not manifest any interest?—A. If it isn't a little forward, my answer is I manifested no interest.

Q. Or take any active part in any election up to December 31, 1918?—A. Up to election day and until the polls closed I took no active part in the election, understand. Are you satisfied with that?

Q. I understand; and you manifested no interest?—A. I took no active part. In my letter I stated I think it time to begin.

Q. Is it here you manifested no interest?—A. What do you mean my manifesting an interest?

Q. I am asking you; in your statement you said that you had no interest.—A. What do you mean by manifesting an interest?

Q. Working for Wickersham; trying to get votes for him.—A. I just told you I took no active part.

Q. And you were not interested in the outcome?—A. I showed no activity.

Q. You didn't care whether Mr. Wickersham won or Mr. Sulzer?—A. That is an affair of mine, sir. Are you done with me? I am not getting tired, but—

Q. Well, isn't it a fact, Mr. Durkin, that since you had an idea—an ambition—to become a United States commissioner that you lost all interest in politics as a Democrat?—A. I have an idea—I have an ambition—to become President; do you think I am young enough? I will always have ambition. I was born with ambition, and I hope to have ambition until I turn up my toes. A man without ambition is no good, worthless, ought to be thrown on the scrap heap.

Q. Isn't it a fact, Mr. Durkin, that you became very much dissatisfied with the condition of affairs inasmuch as the Democratic Party had not offered you some position in this division?—A. Now, sir, I can't answer that question until you put it in a legitimate way. You say isn't it a fact; turn it to is it a fact, and then I will answer your question.

Q. I will do it any way to suit. Is it a fact that since the Democratic Party did not offer you a position that you became very much dissatisfied with the Democratic Party?—A. No, sir; emphatically, no. If I held office under the party in Alaska to-morrow I would resign. I could not tolerate such a régime.

Q. Now, about this recording that you say there was some little difficulty over; it happened about a year before you wrote that letter?—A. No; not a year before I wrote it. I was employed building a stamp mill at North Arm for the Complex Mine. I was first employed as a blacksmith, and then they wanted to know if I understood construction work, and I said yes, if you give me the plans I will put up the building. So I did. I sent over that notice—notice of retention, what I would call it, not proof of labor—and after I mailed it there was a disappointment in the boat. The boat didn't come in through stormy weather. However, it got over here in January, a few days after the new year, but it was mailed in time to get here before the 1st of January, and I continued working then until May, and when I come in I come up and saw Mahoney, so that wasn't a year.

Q. It was the 1st of May?—A. No; it wasn't. It might have been the last of May or middle.

Q. Month of May?—A. I think it was the month of May.

Q. Now, Mr. Durkin, at that time did you feel as though he had singled you out to make you the victim of high fees or whether he charged that fee to everybody?—A. I was arguing my cause with him, not anybody else's. He wanted to overcharge me; in fact, he wasn't entitled to anything, and I said

"I don't ask anybody to work for me for nothin." I throwed \$1.30 on the counter and he refused to take it.

Q. At the time you didn't feel he had singled you out among all the rest of the people for overcharge?—A. I didn't give any consideration to anybody else, only myself. I was there to look after myself.

Q. I will ask you if you didn't know that charge was made by practically all the commissioners?—A. I didn't know; I wouldn't pay what I knew wasn't due.

By Judge WICKERSHAM.

Mr. Durkin, you speak about the act of Congress remitting assessment work on unpatented mining claims and you said you considered it an invalid act and didn't apply to Alaska?—A. I said it didn't apply to Alaska.

Q. Do you know that subsequent to that time Congress passed another act which did apply to Alaska?—A. I never saw it; is it retroactive, confiscatory.

Q. It simply relates to work in Alaska for 1917, 1918, and 1919?—A. But does not confiscate locations made by those people?

Q. And has nothing to do with the act you mentioned which did not apply to Alaska, just as you said.

JOHN J. DURKIN.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
*Notary Public for Alaska.*

#### DEPOSITION OF AARON SHELLHOUSE.

Mr. SHELLHOUSE called and sworn.

By Judge WICKERSHAM:

Q. Mr. Shellhouse, state your name, will you please?—A. Aaron Shellhouse.

Q. How old are you?—A. I will be 65 years old the 6th of next month.

Q. Where were you born?—A. Ohio—Lebanon, Ohio.

Q. When did you come to Alaska?—A. Fall of eighty-six.

Q. Where have you resided since you have been in Alaska?—A. I have put in about a year in Juneau and I put in two years in Idaho Inlet or on the western coast of Jacobi Island, Cross Sound.

Q. Where have you resided for the last 10 or 15 years?—A. I have been right at Sulzer.

Q. Sulzer post office, Prince of Wales Island?—A. Yes.

Q. Have you land, claims there?—A. That is my home. I located that as a homestead.

Q. When?—A. Twenty-two years ago, I think the records will show.

Q. And where have you resided since that time?—A. Well, you might say that has been my home ever since that time, Sulzer, or Dall Island maybe for five or six months at a stretch.

Q. But your home has been at Sulzer post office?—A. Yes, sir; I was located over there.

Q. Where were you on November 5, 1918, at the time of the election, of the general election, for Delegate to Congress for Alaska?—A. Right in Sulzer post office.

Q. Was there an election held there that day?—A. Yes.

Q. Is there a precinct at that place?—A. Yes, sir.

Q. What is the precinct?—A. It is the Sulzer precinct, but it is under Ketchikan rules and regulations.

Q. Who were the election officers there at that time?—A. Mr. McLeod, Dunk. Campbell, and Dan Raffelson.

Q. Who were clerks of election, do you know?—A. They had no clerks there that I know.

Q. You wasn't election officer?—A. No, sir.

Q. Did you vote at that time?—A. I did, sir.

Q. Did you vote for Delegate for Congress for Alaska?—A. Yes, sir.

Q. Who did you vote for?—A. For Mr. Wickersham.

Q. How many votes did Wickersham receive?—A. Three.

Q. Who were the other two votes for Mr. Wickersham?—A. Capt. Osborn, and I forgot that other gentleman's name.

Q. Harry W. Osborn and M. W. Carpenter?—A. Yes, sir.

Q. How do you know who voted for Wickersham?—A. There was only three votes there and I was one, and the other two gentlemen they told me they voted for Mr. Wickersham.

Q. That is the way you know it?—A. That is the way I know it.

Q. There were 41 votes in the Sulzer precinct on November 5, 1918, at the general election for Delegate?—A. Yes, sir.

Q. And three of them were for Wickersham and you have named the three?—A. Yes, sir.

Q. I wish you would listen to this list of names I will read to you: Paul Morrison, Sidney N. Carle, Peter Nathan, Reuben Edenshaw, Charles Scott, James Eamso, what is his name?—A. I know Jack Edenshaw.

Q. Boyd Nakaptla, Luke Frank, Alex Peele, Joseph Nix, Louis Tom, Mike George, D. D. Nathan, jr., Richard Nix, Adam Spoon, Jim Wallace, William Peele, Walter Frank. Do you know those men?—A. Yes, sir; I am well acquainted with them all.

Q. How long have you known them?—A. Ever since I have been down here, I come here in 1890, but that is at Howkan or Hunters Bay, ever since I come from Juneau, they have worked for me.

Q. So you personally know every one?—A. Yes, sir.

Q. What nationality are they?—A. Hyda Indians.

Q. Where do they reside?—A. Hydaburg.

Q. Where is Hydaburg?—A. It is about 20 miles from Sulzer post office.

Q. To the westward?—A. Yes, sir.

Q. Just opposite the old Indian village of Sukkwam?—A. Just opposite the old village of Sukkwam.

Q. They are all Indians—Hyda Indians?—A. Yes, sir; there is a couple of white men lives there.

Q. I am just calling your attention to those 18 men.—A. All Hyda Indians.

Q. And all residing on the Hyda Indian Reservation at Hydaburg, about 20 miles west of Sulzer?—A. Yes, sir.

Q. I notice in this list there is a man by the name of Joseph Nix and Richard Nix; do you know them?—A. Yes.

Q. Do you know one George A. Nix?—A. I think it is Richard Nix's son; must be; he has got two or three boys.

Q. He wasn't there and voted that day?—A. No, sir; I didn't notice him.

Q. You think he is Richard's son?—A. I think so; I hardly think he would be old enough to vote, the one I mean, anyhow.

Q. I now call your attention to another matter; some of the voters from Klawack who voted at Craig, Alaska, on that same day and I want to know if you know these men; and I give—hand you here a list so you may look at them?—A. I haven't my glasses.

Q. I will ask you if you know Thaddeaus Isaacs?—A. Yes, sir.

Q. Who is Thaddeaus Isaacs?—A. I understand that he has got married; he used to be at Hydaburg.

Q. He is a Hyda Indian?—A. Yes, sir.

Q. Where does he reside?—A. At Hydaburg until this summer his wife died and he married at Klawack and he is stopping at Klawack.

Q. Where did he reside November 5, 1918?—A. At Hydaburg; he was there that day.

Q. He resided there at that time?—A. Yes.

Q. But, if he voted at Klawack—you have got the list of the Sulzer voters; those 18; he is not in that list.—A. If he voted at Klawack I know nothing about it.

Q. Where did he reside; at Hyda?—A. Yes; at that time.

Q. Did he reside there November 5, 1918?—A. Yes; he got married just this summer.

Q. Do you know George Demert?—A. I am not very well acquainted with him; he lives at Shakan, but I understand he is from Klawack.

Q. What is his nationality?—A. A Clinket.

Q. An Indian?—A. Yes, sir.

Q. Where does he reside—at Klawack?—A. Klawack.

Q. Do you know R. J. Peratovich?—A. Yes.

Q. Where does he reside?—A. Klawack.

Q. Do you know whether both these men resided at Klawack on November 5, 1918?—A. Yes; born and raised there.

Q. Do you know J. K. Williams?—A. I know Johnnie Williams.

Q. Is Johnnie Williams an Indian?—A. Yes, sir.

- Q. Where does he reside; at Klawack?—A. Klawack.
- Q. And William Stewart?—A. I don't know him.
- Q. Do you know C. P. Wilson?—A. Yes, sir.
- Q. Where does he reside?—A. Klawack.
- Q. There is Johnnie Wilson and C. P. Wilson?—A. I know both Wilsons; I know them both.
- Q. They reside at Klawack?—A. Yes.
- Q. What is their nationality?—A. Indians.
- Q. Do you know Jack Peratovich?—A. Yes.
- Q. What is his nationality?—A. They are Dagos and Indians; they live in Klawack; born and raised there.
- Q. And live there on the reservation?—A. Yes, sir.
- Q. Sam Gunyah?—A. He is an Indian and lives on the Klawack Reservation.
- Q. Klawack Indian and resides on the Klawack Indian Reservation?—A. Yes.
- Q. All these men, do they reside on the Klawack Indian Reservation?—A. Yes.
- Q. And Sam Davis?—A. I don't think I know Sam Davis.
- Q. This Sam Davis, I think, is a hunchback fellow; he is dead now.—A. I can't say.
- Q. Charles W. Demert?—A. Yes.
- Q. He lives on the Klawack Indian Reservation?—A. Yes.
- Q. How long have they been living there on that reservation?—A. All the Shaken and Tuxekan Indians, they moved to Klawack.
- Q. When?—A. I think it has been seven or eight years or more.
- Q. Now, where do they live; at Klawack?—A. Yes.
- Q. Is that an old Indian village?—A. Yes, sir.
- Q. How long has this old Indian village been there?—A. At Shaken?
- Q. Yes; how long has this old Indian village been there?—A. Ever since I have been there.
- Q. And these men have lived on the old Shaken Indian village?—A. Yes, sir; but I think they have moved to Klawack.
- Q. Now, you said that some of them lived at Tuxekan?—A. Yes; they are all one tribe, the Klawack, Shakan, and Tuxekans.
- Q. Now, these men have lived, some in Shakan, and some lived in Tuxekan, and they moved to Klawack from these other Indian villages?—A. Yes.
- Q. Is Klawack an old Indian village?—A. Yes, sir; Klawack was an Indian village when Bob Armour was running that cannery; he must have been there 10 years before I come down to this country, and it was an Indian village when he come there.
- Q. Those three are three old Indian villages on the west coast of Prince of Wales Island and of the same tribe and lived in their own village?—A. Yes, sir.
- Q. And lived there ever since you know anything about them?—A. Yes, sir.
- Q. And some of these men came from those places to Klawack?—A. Yes, sir.
- Q. Now, Lee Anneskit, Maxfield Dalton, Johnnie Anneskit, and Clyde Fields, and Arthur James, do you know those men?—A. No; I do not.
- Q. Do you know the Anneskets?—A. I can't place them.
- Q. There is a Peter Annesket?—A. Sure can't be spelled right.
- Q. You may know all those people, if you don't know their names?—A. Sure, lots know me that I don't know.
- Q. Do you know Charlie Brown?—A. Yes.
- Q. Who is Charlie Brown?—A. He is a Hyda; there is two Browns, Johnnie Brown. Charlie is a Thlinket, and Johnnie Brown is a Hyda.
- Q. They live in Klawack?—A. Johnnie does.
- Q. What is Charlie, an Hyda?—A. He is a Thlinket.
- Q. Charlie Brown is a Thlinket Indian and resides in Klawack?—A. Yes, sir.
- Q. Frank Williams?—A. He is a Thlinket Indian.
- Q. Does he reside on the reservation in the old Indian village at Klawack?—A. Yes, sir.
- Q. Do you know R. D. Collins?—A. No, sir; I don't believe I do.
- Q. Peter Anneskit?—A. I must do; that name sounds natural to me; I am not sure about it.
- Q. E. E. Conolly?—A. I don't know him.
- Q. But these men you have recognized here as voting at Craig are all Indians and reside on the Klawack Indian Reservation?—A. Yes, sir.
- Q. Do you know Will Skulka?—A. Yes, sir.
- Q. Who is Will Skulka?—A. Hyda.
- Q. Where is his residence?—A. Hydaburg.

Q. On the Hyda Indian Reservation?—A. Yes, sir.

Q. If he voted at Craig he voted outside his precinct?—A. Yes, sir.

By Attorney ZEIGLER.

Q. There isn't any testimony he voted at Craig?

Mr. WICKERSHAM. We have a list of those that voted at Craig.

By Judge WICKERSHAM:

Q. Willie Skulka lives on the Hyda Reservation, which Congress reserved for the Hyda Indians?—A. Yes, sir.

Q. Do you know John Skulka?—A. He is a Hyda.

Q. Where does he live?—A. Hydaburg.

Q. Do you know Albert Natkong?—A. Yes; he is a Hyda.

Q. Where does he reside?—A. Hydaburg.

Q. On the Hyda Indian Reservation?—A. Yes, sir.

Q. Do you know Edwin Scott?—A. Yes, sir.

Q. Where does he reside?—A. Hydaburg.

Q. Hydaburg Indian Reservation?—A. Yes, sir.

Q. And Natkong and Scott are both Hyda Indians?—A. Yes.

Q. Do you know Frank Paul?—A. Yes.

Q. Where does he reside?—A. Hydaburg.

Q. Hyda Indian Reservation?—A. Yes.

Q. Mr. Shellhouse in this list is a man, an Indian, Sidney N. Corie, what is his name, Carl?

Attorney ZEIGLER. That is very leading.

Judge WICKERSHAM. That has reference to the correction of the name.

A. I can't really place the man.

Q. In the list I have here is James Emalsaul, do you know James Edanshaw or not?—A. I don't know.

Q. Don't you know James Edanshaw?—Yes.

Q. He is an Indian?—A. Sure, he is an Indian.

Q. In the list is Alex Peel, he is an Indian?—A. Yes, sir; I am well acquainted with him.

Q. I notice we have his name in here as Alex Peeler?—A. His name is Alex Peel.

Q. Now, in the list I have two names, one Alex Peel or Peeler and another William Peel or Peeler.—A. I think Alex has got some young sons.

Q. What is the family name?—A. Peele.

Q. How much time were you around the polls at Sulzer on election day, November 5, 1918?—A. I was around there a great deal.

Q. Did you see these natives I mentioned there voting?—A. Yes; sure. You see I was put on as a watchman that time and, of course, the natives they all come in right after dinner and after they voted; well, then, I went down to my house for a half hour and I come back again.

Q. You saw these people there voting at that time?—A. Yes.

By Attorney COSGROVE:

Q. Mr. Shellhouse, I understand you to state you have lived on the west coast of Prince of Wales Island for a long time?—A. Yes, sir.

Q. About 20 years?—A. Longer; close to 30 years; I come down here in 1890, and I have been on the west coast all the time.

Q. You were in Sulzer election day, November 5, 1918, on the day of election?—A. Yes, sir; my home is there.

Q. You were in the hall and at the polls all day long?—A. Not all day, you might say pretty near all day, I wasn't inside the hall.

Q. Didn't I understand you to say you were a watchman at the polls?—A. That was the spring election; that was when I was a watchman. It was when Mahoney, I remember, he appointed me, but not the fall election. It was in the spring election; that was a mistake, not the fall of 1918.

Q. What were you doing election day, in the fall of 1918?—A. I am always around where anything is going around; I go around on the outside, listening what I hear and see.

Q. By the way, I believe your wife is an Indian?—A. Yes, sir.

Q. How many times have you been married, more than once?—A. I have been married twice.

Q. Was your first wife an Indian?—A. Yes, sir.

Q. Have you any children, have you had any children?—A. Yes, sir.

Q. How many?—A. Three.



Q. Boys or girls?—A. Two girls.

Q. These are grown to maturity now I presume?—A. No, sir; are not; a girl is full-grown.

Q. Did they vote on November 5, 1918?—A. Neither one of them was there.

Q. You voted?—A. In the fall of 1918.

Q. How did you vote?—A. For Judge Wickersham.

Q. You say you know two others voted for him?—A. I do by the count of the election; you see there was only three votes for Judge Wickersham, myself and two other votes from Nome.

Q. From Nome?—A. They called in there that fall.

Q. These two men from Nome, what were their names, do you recollect?—A. Harry Osborn and N. W. Carpenter.

Q. How long had they been in Sulzer?—A. They had been to Sulzer; they come in there somewhere near the end of October, but I can't just mention what day.

Q. They were there two or three days before election day?—A. A couple weeks before election.

Q. Wasn't there long, then, were they?—A. Not at that place.

Q. They told you they voted for Wickersham?—A. They told me they were Wickersham men.

Q. They also told you they were on their way to Seattle and stopped in there to give Wickersham their vote?—A. They lost a sail and the engine played out on them.

Q. Had their repairs been completed?—A. No, sir; it wasn't finished until this spring and they took the boat up to Juneau to finish.

Q. And they took up the boat to Juneau?—A. This spring.

Q. But after election day what became of them?—A. They went down to Seattle.

Q. So altogether they were not in Sulzer more than a couple weeks?—A. They went to Seattle, and the captain come back again and stayed there about one month and then went to Juneau.

Q. And they left Sulzer right after election day?—A. He was there before they went to Seattle.

Q. They were there a week or 10 days before election day?—A. Very close to two weeks.

Q. By the way you were asked to be an election officer on that day by Mr. Mahoney?—A. Yes, sir; I think I told Mr. Raffelson that I didn't want to have anything to do with it whatever.

Q. Now these boys you speak of, there are several lists of them, you say you are acquainted with all of them?—A. Yes, sir.

Q. They are all men grown are they?—A. Yes, sir; all men grown.

Q. And pretty bright boys I assume?—A. Taking them as Indians they are very bright.

Q. By the term Indian, what do you understand an Indian to be, anybody who has any Indian blood is an Indian?—A. That would be my idea.

Q. Might be quarter-breeds, eighth or sixteenth breed?—A. Something of that kind. It would be pretty hard to reach a conclusion because I know some at Hoonah and Sitka that were full breeds and it was hard to detect them from a white girl.

Q. And it is harder to tell Indians from the way they live, too?—A. That would be one way I would really tell.

Q. The way they live?—A. If they are brought up as half-breeds I should think as soon as they get up, of age, to know something, they wouldn't be amongst the tribe, they would be out with white men.

Q. These Indians you speak of, they follow daily occupations, don't they?—A. Fishing.

Q. And a number are in business for themselves?—A. Yes.

Q. And own their own boats?—A. Yes, sir; and use them.

Q. And do you know anyone in this list you furnished or that was furnished that live any different from the way you do Mr. Shellhouse?—A. The only difference is that they live, they being on the Indian reservation.

Q. That is the only thing, where they have houses, is in your opinion that they live on the Indian reservation?—A. Yes, sir. I have been on the frontier most of my life and I have been at elections through Montana and I know myself where white men would have to go 40 miles and across the Missouri River to get off the reservation to vote.

Q. Do you compare the status of these Indians with the status of those in the States?—A. They are different Indians, they are all Indians.

Q. These boys, most of them own their own homes?—A. They claim to own what they got at Hydaburg.

Q. They don't live in wigwams?—A. No, sir.

Q. They have tables, chairs, and beds?—A. Yes, sir.

Q. And so far as you know they have adopted the habits and customs of the white man?—A. That is what they are trying to get along to.

Q. But don't they?—A. Yes, sir.

Q. A good many of them have licenses to run boats, captain and masters' licenses?—A. Well, they have licenses calling for fish boats, no passenger boats.

Q. And Bob Peratovich has a big store over there?—A. Yes, sir.

Q. So has George Demert?—A. Yes, sir.

Q. And they handle their own money?—A. Yes, sir.

Q. What does the Government do to interfere with their leading the life of the white man?—A. At Hydaburg and Klawack, both these places, the superintendent has been sent by the Government, and he keeps books, Mr. Hawksworth, there is a new man there now, Hansen I believe is his name, and he is there to aid the natives obtain an education. He is there for the Government affair.

Q. How did he assume any authority over the natives?—A. He told me just a few weeks ago that he sat up until 12 o'clock every night keeping up the books in the store and sawmill business.

Q. These stores are run by the Indians with Indian money?—A. No, sir; the Government has put money in, the Indians told me and they had four years to pay for it.

Q. There are other stores besides these, there are other stores at Hydaburg?—A. These personal stores?

Q. Yes.—A. Johnnie Skukle had a store.

Q. Mr. Shellhouse, what I am trying to get out of you is this, you speak about the Indian reservation in the States and the Indians and you speak of the Indian reservations on the west coast of Prince of Wales Island, would you say the conditions are alike?—A. It isn't the same as the Indian agency on the plains, because we know the Government there furnished them everything, blankets, flour, but here they don't furnish that, but when the Government turns in and surveys off 3 miles of land and gives it to them for their home, of course I should make it out it would be an Indian reservation, in my opinion.

Q. That is the way you reach your conclusions and the only way?—A. Yes; the only way I could see. A Government fort is 3 miles square on the plains; it used to be.

Q. You wouldn't know how any of these men voted if they had voted elsewhere than Sulzer that day?—A. No; not away from Sulzer; 18 Indians is all I can talk about.

Q. Do you know whether any of these persons you have mentioned have other houses, more than the one place?—A. Well, they don't really have any places; they might have camps at their hunting grounds or when fishing and such as that.

Q. And lots of them live on their boats most of the time?—A. Any time when fishing.

Q. Do you know whether the Government exercises any control over their movements?—A. I couldn't tell you.

Q. You know the Government does not tell them where they shall go or how they shall go or when they shall come back and you know whether or not a guard goes with them?—A. They can go where they like; if they go across the line, they have to come to the customhouse.

Q. The same as a white man?—A. Yes.

Q. Don't they live the life of the white man as you know the white man here to live?—A. That is what they are trying to fetch them up to now. Part of them does and part don't.

Q. What part don't?—A. These boys what turned in and been voting in Sulzer precinct; these boys are pretty well educated and still they are living and making their home at Hydaburg.

Q. Other than that they go where they like, when they like, and stay as long as they like, and live in houses which they own themselves, and use the white man's furnishings for their houses and the white man's dress and follow no tribal customs whatever?—A. That is true.

Q. And your only objection is that they live on a strip of land which the Government has set aside for them, if they care to live there?—A. Yes, sir; me and Mr. Hawksworth had several arguments. I said they had no right to vote. The white man living on the Indian reservation on the plains he couldn't vote if married to an Indian or living with them; he was put down as one of the Indians.

Q. In fact, you wouldn't know, Mr. Shellhouse, whether these boys are Indians or not except from the company they keep?—A. They have been living amongst them.

Q. Do you know the nationality of their fathers and mothers?—A. It is pretty hard to tell a native's father, but you can always tell their mother.

Q. His mother may have some uncertainty about her nationality?—A. She may be a cross between a fisherman and a Jap.

Q. It is just your conclusion they are Indians, but you can quote no authority?—A. I make them out Hyda Indians.

Q. That is an impression you have because you can't account for any other nationality?—A. Of course there might be Japanese, Mexicans, or anything among them.

Q. Some Federal officials; you can't tell about it?—A. No.

Q. Will you answer this question, yes or no, if you can? You have had some trouble with Mr. Sulzer before he died, did you not?—A. Me and him has had little spats; lots of them; nothing very serious.

Q. Prior to his death you didn't feel very friendly toward him?—A. So far as me and Mr. Sulzer, of course, I never went against him for nothing only on this election business.

Q. Do you remember what the vote was at Sulzer precinct the first time Mr. Sulzer ran?—A. The first time?

Q. 1916?—A. It seems to me it was 68 or 78.

Q. Isn't it a fact you were the only man in Sulzer precinct that voted against him?—A. Yes, sir.

Q. And your attitude toward him hadn't been friendly and you never voted for him since?—A. No, sir; never will. Mr. Sulzer never got my vote.

Q. You worked for the other ticket all the time?—A. I worked this time. He [indicating Wickersham] always got my vote, and if anybody would ask me questions—asked me who I voted for—I would tell them Judge Wickersham.

Q. How do you account for your lack of influence among the natives; you didn't seem to make much impression?—A. I did when Bunnell ran and the women vote. Mr. Wickersham would have won if it wasn't for the women vote.

Q. You worked just as hard the election of 1918 against Mr. Sulzer?—A. And everybody knows me on the west coast, and they tried to get my vote because I was the only one man who didn't vote for him, and they come to my house, and I told them they could talk until to-morrow morning.

Q. Who did you vote these Indians for in the elections of 1914 and 1916?—A. They asked me who I was to vote for and I told them I would vote for Wickersham, and Alex Peele jumped up and said he is my man.

Q. You voted lots of them for Wickersham, 40 or 50?—A. No.

Q. And you tried to get them to vote on November 5, 1918, for him and they wouldn't stand for it?—A. After Mr. Sulzer was in high then, of course they turned, they were for the Sulzer party, the missionaries all stood in with Mr. Sulzer.

Q. You never made any kick about their voting for Mr. Wickersham?—A. Sure not, wouldn't do no good.

Q. You didn't make any kick in the Bunnell-Wickersham fight?—A. Well, they asked me how I voted and when I told them they voted the same.

Q. You didn't keep any Indians from voting that day?—A. I didn't really stop the Indians from voting anytime. You never seen Indians challeged.

Q. They were practically the same list of Indians?—A. Sure, we didn't have to challenge them.

Q. You said you know Sidney Corie?—A. No, sir; I don't know him.

Q. Do you know whether any Indians were drafted to the United States Army?—A. I think there is only one I do know because I didn't pay much attention. It was Gardner's son, his first name is Fred, I guess, he just got back here a short time ago.

Q. But you heard several Indians had been drafted?—A. Sure.

Q. Quite a lot of Indians went into the Army?—A. I can't say, they never got where the fighting was.

Q. There were quite a number in the list of Indians who went into the Army?—A. Not that I know.

Judge WICKERSHAM. Couldn't have if they voted November 5, 1918.

Attorney COSGROVE. Do you know anything about the registration of these Indians for entrance into the Army?

A. No, sir.

AARON SHELLHOUSE.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

Judge WICKERSHAM. I now offer in evidence and read into the record, the act of March 4, 1907, being found in the Thirty-fourth Statute at large, page 1411, and also being section 24, in the Compiled Laws of Alaska, 1913, as follows:

"That all Indians of the Tsimpsean or Haida Tribe of the full or mixed blood who emigrated from British Columbia and settled at Metlakatla on Annette Island in southeastern Alaska, in the year 1887 and subsequent years, as well as all descendants of such Indians, and all other Indians who have since become and remained bona fide residents of said Metlakatla, Alaska, shall, if otherwise qualified, be entitled to receive and obtain licenses as masters, pilots, and engineers, as the case may be, of any and all steamboats and other craft, and also licenses as operators of motor boats and other craft, subject to the provisions of the act of Congress approved May 16, 1906, entitled 'An act to amend section 4420 of the Revised Statutes of the United States, regulation of motor boats,' with the same force and effect as if they had been citizens of the United States; any such Indian may be the owner of any such motor boat or other craft, subject to the provisions of the said act of May 16, 1906, although such Indian be not a citizen of the United States, without depriving said motor boat or other craft of the benefits and privileges of a vessel of the United States.

"That a certificate under the hand of any officer of the customs in Alaska, to the effect that the applicant for one of the different licenses mentioned in this section comes within one of the provisions of said first paragraph of this section shall, together with the affidavit of the applicant to that effect, be sufficient evidence of the fact that said applicant is entitled to the privileges conferred upon said Indians by the first paragraph of this section.

"That this act shall take effect and be in force from and after its passage."

AUGUST 11, 1919—8 P. M.

Judge WICKERSHAM. Following the testimony of this witness, Aaron Shellhouse, I offer in evidence Executive order, made by President Taft on June 19, 1912, reserving the Hydah Indian Reservation on the lower end of Prince of Wales Island and upper end of Sukkwan Island, in Alaska, for the use of the Hydah Tribe of Indians; the Executive order being No. 1555, and ask that it be marked as an exhibit. (See Exhibit "C.")

#### EXHIBIT C.

#### EXECUTIVE ORDER NO. 1555.

It is hereby ordered that the following land and water surfaces within the Tongass National Forest, surrounding the village of Hydaburg, in Alaska, be, and the same are hereby reserved, subject to any vested rights, for use of the Hydah tribe of Indians and such of the natives of Alaska as may settle within the limits of the reservation, viz:

Beginning at a large rock situated at the line of high tide and a few feet north of the sawmill in the village of Hydaburg, on the west coast of Prince of Wales Island, at approximately 55° 12' N. latitude and 132° 48' W. longitude, and at a cross chiseled on said rock, and running thence east 140 chains to a point for the middle of the east boundary of the reservation; thence north 140 chains to a point for the northeast corner; thence west 279.60 chains on land and the water of Sukkwan Strait to a point for the northwest corner; thence south 280 chains on said strait and on land, to a point for the southwest corner; thence east 280 chains on said strait and on land to a point for the southeast corner; thence north on the east boundary 140 chains to

a point east of the place of beginning, including a tract 12.24 square miles (7,833.6 acres), with all islands and parts of islands within said boundary, as represented upon a diagram<sup>1</sup> accompanying this order and made a part hereof.

WM. H. TAFT.

THE WHITE HOUSE, June 19, 1912.

I also offer in evidence a copy of the Executive order of President Wilson, dated April 21, 1914, No. 1920, reserving the Klawak Reservation for the use of the Klawak Indians in Alaska, and ask that it be marked as an exhibit. (See Exhibit "D.")

EXHIBIT D.

EXECUTIVE ORDER NO. 1920.

It is hereby ordered that the tract of land in Alaska described as follows, in and surrounding the native village of Klawak, and within the Tongass National Forest, be and the same is hereby reserved, subject to any vested rights existing, for the use of the United States Bureau of Education and of the natives of indigenous Alaskan race who may there reside, viz:

*Description.*—Beginning at a point on the shore of the salt bay or mouth of Klawak Stream, 114 links south of a post marked U. S. I. R. 1, which is a witness to said point on shore and stands about 40 chains eastward from Klawak village; thence northerly by a marked line 58.49 chains to a point on the shore of Klawak Harbor which is 30 links north of a witness post marked U. S. I. R. 2; thence westerly along the shore, and then around the peninsula at the mean high-tide mark to point for corner No. 1, the place of beginning; situated approximately in latitude 55° 33' north, longitude 133° 06' west, and estimated to contain 230 acres; as represented upon a diagram<sup>1</sup> accompanying this order and made a part thereof.

WOODBROW WILSON.

THE WHITE HOUSE, April 21, 1914.

Let the record also show we have made every effort to get Taylor Althouse here but we have been unable to do so.

DEPOSITION OF HARVEY M. STACKPOLE.

Mr. STACKPOLE called and sworn.

By Judge WICKERSHAM:

Q. Mr. Stackpole, what is your name?—A. Harvey M. Stackpole.

Q. How old are you?—A. Thirty-three.

Q. Where do you reside?—A. Ketchikan.

Q. How long have you been a resident?—A. Since 1902, I think.

Q. You are a married man and have a family?—A. Yes, sir.

Q. What business are you engaged in?—A. Brokerage and insurance.

Q. Your father was United States commissioner here for a long time?—A. I think about 15 years.

Q. And you served as deputy clerk, etc.?—A. Yes, sir; but just as assistant.

Q. Do you know Mr. William T. Mahoney, the United States commissioner?—A. Yes.

Q. Mr. Mahoney is deputy clerk of the United States court, also, isn't he?—A. Yes.

Q. And commissioner, probate judge, recorder, etc.?—A. So far as I know.

Q. Do you know where Mr. Mahoney lived prior to his appointment here as commissioner?—A. I believe he lived at Sulzer.

Q. Was bookkeeper and storekeeper for Mr. Sulzer?—A. What I know is just hearsay.

Attorney ZEIGLER. I object, on the ground that no proper foundation has been laid for general reputation.

<sup>1</sup> Not printed.



By Judge WICKERSHAM :

Q. What does Mr. Mahoney do in Ketchikan?—He is United States commissioner.

Q. Aside from that, he is engaged in what other business?—A. Bottling works, I think.

Q. And he operates an automobile, do you know?—A. Yes, sir.

Q. What does he do with that automobile with reference to delivering his manufactured goods?—A. Why, I don't know whether he does anything with the machine; whether he is at the present time delivering his goods.

Q. Did you know Mr. Mahoney on November 5, 1918?—A. Yes, sir.

Q. Did you see him in his automobile at any time or place that day?—A. Yes, sir.

Q. Where?—A. Several places.

Q. What was he doing?—A. Seemingly—well, I would say he was bringing voters to the polls.

Q. Did you see him bring any voters to the polls?—A. Yes, sir.

Q. Whom?—A. A woman called Black Mary, and another prostitute.

Q. Where were they brought from, and where do they live, do you know?—A. Why, I heard they lived in the Red Star, and, for a matter of fact, one lived in the Red Star. Where the other lived I do not know.

Q. Where did you see the women in the automobile?—A. I saw them in front of the polls.

Q. Here—opposite this building?—A. Yes, sir.

Q. What did they do at that time?—A. They were getting out of the machine.

Q. Was Mahoney in the machine?—A. Yes, sir.

Q. And where did they go when they got out of the machine?—A. Into the polls.

Q. To vote? Do you know whether Mr. Mahoney was actively engaged in political work that day? You say you saw him around hauling voters?—

A. I didn't say that, but I saw him hauling these people.

Q. You know he is a Democrat?—A. Yes.

Q. He was also working for Sulzer very earnestly?—A. Yes.

Q. What precincts are in the Ketchikan recording district?—A. The first precinct, he had, as far as I remember; but Mahoney might have changed them since.

Attorney ZEIGLER. We object to what this witness has to say as to the voting precincts, on the ground that it is not the best evidence, but comes from a man's memory which is very unreliable.

By Judge WICKERSHAM :

Q. Ketchikan is in the Ketchikan recording district, and Craig?—A. Yes, sir.

Q. And Sulzer?—A. Yes, sir.

Q. Tokeen?—A. Yes, sir.

Q. Beaver Falls?—A. Yes, sir.

Q. Charcoal Point?—A. Yes, sir.

Q. Dolomi?—A. Yes, sir.

Q. Hyder?—A. That is Portland City; it was known in the precinct.

Q. Kasaan?—A. Yes, sir.

Q. And Loring?—A. Yes, sir.

Q. And Hadley?—A. Yes, sir.

Q. All these precincts are in the Ketchikan recording district, and who appoints the election officers in all those precincts?—A. If the laws are the same as when I was up on the hill, the United States commissioner appoints them.

Q. Mr. Mahoney?—A. Yes, sir.

By Attorney COSGROVE :

Q. Mr. Stackpole, I presume you were holding the position as deputy while your father was on the hill?—A. Just as his assistant.

By Judge WICKERSHAM :

Q. Just a minute. Do you know anything about Mr. Mahoney being engaged in betting on the election at that time?—A. Only hearsay.

Q. You heard criticisms about it?—A. Yes; several.

Q. How much criticism did you hear about his activities, Mr. Stackpole?—A. Why, there was some little criticism; he was offering bets in the Stedman Hotel. He didn't directly make any to me.

By Attorney Cosgrove:

Q. Were they criticisms you heard or merely comments?—A. There would be several ways of judging that.

Q. You wouldn't criticize him?—A. No; because I am a betting man myself.

Q. That you consider is quite prevalent in Ketchikan on all issues?—A. I know you have won considerable money from me.

Q. Base ball, boat races, prize fights, and even wrestling?—A. Yes.

Q. And election. Now, you spoke of Mr. Mahoney being in different businesses. He was in the Ketchikan Soda Works, and I believe he has been in business with you, has he not—associated with you in the Walker Drug Co.?—A. Yes; he was.

Q. How long ago was that?—A. It seems to me you have a good recollection. We incorporated in 1916 or 1917—I am not positive which year—at that time, I think Mr. Mahoney held one share in the store.

Q. And part of the time in the drug business for himself?—A. Yes.

Q. And, as a matter of fact, you know he had considerable money in it, did he not?—A. I imagine so, although I don't know that.

Q. You say you saw him bring Black Mary and another prostitute to the polls?—A. I did.

Q. How did it happen you noticed them?—A. I was leaving my office about quarter past 6, and they came around the corner of my office and stopped here and they got out.

Q. About what time of the day was that?—A. About quarter after 6.

Q. What did you do after you saw him?—A. I stopped into the polls to see how the election was going and went home to dinner.

Q. You were at your office?—A. I was leaving my office.

Q. Your office is how far away?—A. Half or three-fourths of a block; next to the customs.

Q. And you saw these two women get out of the automobile from your office?—A. From here.

Q. From your office?—A. No; I was here.

Q. I thought you were leaving your office?—A. I was probably 20 feet behind him, Mr. Mahoney. He met me two nights after, when he asked me if I was going to make an affidavit. He told me he had paid his tax or license and it was his business.

Q. He had a taxi license?—A. He was paying a license on that machine.

Q. Said he was operating it as a taxicab, as he had a right to do?—A. No.

Q. Did he say anything about having paid a city license or Territorial license to operate it as a taxicab?—A. He didn't say as a taxicab; he said he had paid a license on it.

Q. Did he escort Black Mary into the polls?—A. I don't think he took their arms.

Q. Did he walk in with them?—A. I wouldn't be positive.

Q. Do you know whether he instructed them how to vote?—A. No; I didn't hear.

Q. Did you hear any conversation?—A. No.

Q. Would you say he took anybody else to the polls?—A. Oh, I think so; I wouldn't say who they were.

Q. Your recollection of what happened that day is fairly clear?—A. Yes.

Q. Would you state or do you think of any others he took to vote?—A. No; I can't.

Q. You were rather an energetic Wickersham supporter on this day?—A. I rather think so.

Q. In fact you brought several voters in yourself?—A. I think so.

Q. And among them an Indian girl?—A. A white girl, Nellie Thomas.

Q. And she was under age?—A. She was not.

Q. And you voted her for Wickersham?—A. I didn't vote her.

Q. What was her name?—A. Nellie Thomas, sister to Roy.

Q. And she looked to you for advice as to whom to vote for?—A. I don't think so.

Q. And as a matter of fact you know she did vote for Wickersham?—A. Yes, because she told me.

Q. And where is that girl now?—A. She is in the Swedish Hospital training for a nurse, in Seattle.

Q. How old is she, do you know?—A. She was of age on the 25th of October, either the 25th or 29th, according to her birth certificate.

Q. Haven't you stated prior to this meeting that had you known she was under age you wouldn't have voted her?—A. If I had known she had been under age, I would have had nothing to do with her voting. I don't have to mention names, but the report came around the next day, after election, that I had illegally voted Nellie Thomas; that she wasn't of age, that she was our hired girl and that I brought her down and helped vote her and to tell you frankly it did worry me until I looked up her birth certificate. That would have been one thing worth having on me had I done it, and furthermore there was no coercion on my part and I simply heard she was going to vote. This was her first vote.

Q. Did she make any inquiries as how old a person had to be to vote?—A. I asked her if she was of age.

Q. Did she fully understand?—A. There was no intention on my part of voting her.

Q. You didn't examine her?—A. She is a pretty smart girl.

Q. Have you known Black Mary very long?—A. Yes I think so, not intimately.

Q. Are your relations with her friendly?—A. I write all her insurance, I adjusted a loss she had the other day.

Q. Always been friendly?—A. Yes, so far as I know.

Q. I understand your position to be that you didn't use any coercion or strong advice on Nellie Thomas to govern her voting?—A. Absolutely none.

Q. Do you know of any coercion that Mr. Mahoney brought to bear on Black Mary or her friend bearing on her voting?—A. No, sir.

Q. You had an automobile under your instructions that day?—A. I did not.

Q. Didn't you instruct Dale Hunt and Jack Davies?—A. I did not.

Q. You consulted with them about bringing voters to the polls?—A. Yes, possibly I did.

Q. In fact your whole day was spent in furtherance of the interests of Mr. Wickersham?—A. No.

Q. Most of it?—A. Well, I tell you frankly I voted for Judge Wickersham and worked for the ticket, principally Jack Davies, as you know.

Q. Did everything you could in town that day to help the general movement?—A. I think so, which was my perfect right, I am not an office holder.

Q. Hasn't it been customary when automobiles have been in town to employ them on election day to bring voters and especially women?—A. I believe machines have been donated.

Q. You have used them?—A. Had I hired all the machines in town for Judge Wickersham and Jack Davies it would have been my absolute right.

Q. Everybody gets hold of every automobile they can to work for the ticket?—A. The hauls were principally ladies, the people owning the machines brought them on days the weather was bad.

Q. And lots of those who were not ladies, and women rather than ladies?—A. I never hauled any.

Q. You know it was being done for the benefit of your ticket?—A. Possibly.

Q. I suppose you didn't question Black Mary's right to vote as a citizen of the town?—A. I didn't challenge her.

Q. She wasn't challenged, was she?—A. Not that I know of.

Q. She has lived here, how long to your knowledge?—A. I don't know how long.

Q. Several years?—A. Here and in Wrangell.

Q. And I supposed you raised no questions as to the sufficiency of her intelligence to know how to vote?—A. I stated I raised no question whatever relative to Black Mary.

Q. The mere fact she was seen coming out of Mahoney's automobile with a friend to vote is the subject of your comment?—A. Isn't that as far as I have gone?

Q. Your position then, Mr. Stackpole, is you don't mean to reflect on Judge Mahoney for bringing two voters to the polls, regardless of color?—A. Yes; I think it does reflect on him as an officeholder.

Q. You don't think he ought to do it?—A. No; I don't.

Q. If he did do it?—A. If he did do it.

Q. Aside from that any other criticism; because he is an officer?—A. The criticism I have stated.

Q. Your relations with Mr. Mahoney are more or less strained at the present time, are they not?—A. Why, I don't want them to be.

Q. About the fact?—A. I treat him just as courteous as he treats me, and possibly more so; and Mahoney, so far as he is concerned with me, any business I have had at the hill, he has been very courteous, so far as that is concerned.

Q. But your relations have been more or less strained for some time?—A. Yes; they have a little.

Q. They were last election day, the election of November 5, 1918?—A. Yes; possibly they were.

Q. And really from the time he became commissioner?—A. No; you know better than that, Charlie.

Q. Shortly afterwards?—A. The reason, if there was anything, was something probably Mr. Mahoney doesn't remember, but at a dance in the Moose Hall he told me a deliberate falsehood relative to the place on the hill. I might further say at that time I told him, if he remembers, that Dad's resignation had been in Jennings' hands for probably 30 days.

Q. Mr. Mahoney was your father's successor as United States commissioner?—A. Yes, sir.

Judge WICKERSHAM. About Nellie L. Thomas, you said in answer to questions asked by Mr. Cosgrove, she was of age October, either 25th or 29th, how do you know that?—A. Because I was worried over it when this stuff came around the next day, and I had taken it for granted, and I asked her if she had her birth certificate, and she said she had a record of it in the family Bible, and my mind was absolutely at rest; and, furthermore, as long as it has been gone into, I would like to have Nellie show you that, or her parents here, to stop this. She is at the Swedish Hospital, Seattle.

Q. Are her parents here?—A. Her mother is dead; her father and brothers are here.

Q. You said she was 21 years of age in October before she voted in November?—A. Absolutely.

By Attorney COSGROVE:

Q. You say you don't know what the school records show?—A. I do not.

H. M. STACKPOLE.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

#### DEPOSITION OF EDWARD G. MORRISSEY.

Mr. MORRISSEY called and sworn.

By Judge WICKERSHAM:

Q. You may state your name.—A. Edward G. Morrissey.

Q. How old are you?—A. Thirty-two next December.

Q. Where do you reside now?—A. Ketchikan.

Q. Where were you November 5, 1918, the date of election?—A. Juneau.

Q. Did you vote there that day?—A. Yes.

Q. Which precinct?—A. I voted at the one near the Gastineau Hotel, I don't know, No. 1.

Attorney ZEIGLER. No. 2; Morrissey, No. 2.

By Judge WICKERSHAM:

Q. Did you vote for Delegate to Congress?—A. Yes.

Q. Did you vote for me?—A. No.

Q. Did you vote for Mr. Sulzer?—A. Yes.

By Attorney ZEIGLER:

Q. You were a resident of the Territory of Alaska?—A. Yes.

Q. Had been making Juneau your home at that time and prior thereto?—A. I arrived there in the middle of August, I think.

Q. And was making that place your home at that time?—A. Yes.

By Attorney COSGROVE:

Q. Prior to that time where had you lived?—A. Well, I was—I came from Washington, D. C., as secretary to Mr. Sulzer. Before that I lived in Fairbanks for a number of years.

Q. Prior to that August where was your home?—A. Fairbanks, Alaska.

By Attorney ZEIGLER:

Q. That was your official residence as far as you know?—A. Yes.

Q. You were just simply in Washington attending to the duties as private secretary to Mr. Sulzer?—A. Yes, sir.

EDWARD G. MORRISSEY.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

**DEPOSITION OF J. W. JONES.**

Mr. JONES called and sworn.

Attorney COSGROVE. We object to the taking of the testimony of Mr. Jones, on the ground that no notice was served on us and consequently no time given us for preparation.

Judge WICKERSHAM. The notice was served in Juneau——

Attorney ZEIGLER. The notice was not served, if any was served at all, as required by law regarding the taking of depositions.

By Judge WICKERSHAM:

Q. State your name, Mr. Jones.—A. J. W. Jones.

Q. What is your business?—A. Well, furniture dealer and manager of that department; undertaker.

Q. As part of that department do you have to do with undertaking, coffins, etc.?—A. Yes.

Q. Where were you November 5, 1918—last November, on election day?—A. In Juneau.

Q. How long have you resided in Ketchikan?—A. Two years and about eight months.

Q. Your residence on November 5, 1918, was in Ketchikan, was it?—A. Yes.

Q. But you were in Juneau?—A. Yes.

Q. You know that Ketchikan and Juneau are both in the first division of the Territory of Alaska?—A. I understood it that way; yes.

Q. Did you make any offer to vote in Juneau on November 5, 1918?—A. Yes.

Q. Tell us what you did about it; who was with you?—A. Bob Graham. Well, we were in the Gastineau Hotel a night or two previous to election, and we were talking whether we had a right to vote up there or not, and there was a difference of opinion. In fact, on the boat going up we discussed the matter with—I forgot his name—the United States attorney at Fairbanks.

Q. Mr. Roth?—A. Roth; and I asked Mr. Roth if we had a right to vote, and he said it was a matter which way they decided the law; the Territorial law, I think it was, gave us a right to vote anywhere in the district.

Q. Division?—A. In the division.

Q. Did you go to the polls and offer to vote?—A. Yes.

Q. In what precinct?—A. I can't tell in what precinct.

Q. What were you doing?—A. I was helping to take care of the bodies of the *Princess Sophia*.

Q. The *Princess Sophia*, a passenger vessel, had been lost a few days previous, and a large number of bodies were being brought in there?—A. And they wired down here for help.

Q. Did you offer to vote?—A. Yes; I went and asked for a ballot, and the election officer handed me a ballot, and it was objected to.

Q. Do you know who it was objected—somebody challenged you?—A. I don't remember his name.

Q. Wasn't it Mr. Casey, candidate for the legislature?—A. He was a candidate for the legislature.

Q. Connors?—A. That was his name; I was informed by two or three parties it was Connors.

Q. Did Mr. Graham offer to vote also?—A. Yes.

Q. Was his vote challenged?—A. Yes.

Q. What did they do with your challenge?—A. The election officer, the judge or clerk, said it was all right with him; that we were entitled to vote, so far as he knew; but after the votes were challenged we weren't willing to swear we lived in Juneau the proper length of time; we wouldn't swear, because we lived in Ketchikan.



Q. But you were both challenged?—A. Yes, and didn't vote.

Q. Who did you intend to vote for?—A. Yourself.

Q. Do you know who Mr. Graham intended to vote for?—A. You.

Q. Where did Mr. Graham live at that time?—A. Ketchikan.

Q. A business man here?—A. Yes.

Q. What was he doing in Juneau?—A. He went to assist me. When I got the wire I asked him to go along; he has been an undertaker as well, and we went up on the same business.

Q. And you were refused the right to vote because you hadn't been in the precinct 30 days previous to election?—A. Yes.

By Attorney ZEIGLER:

Q. Your vote was challenged?—A. Yes.

Q. And you were not willing to swear you had been in the precinct 30 days?—A. It was challenged, and they said I hadn't the right to vote until I had lived in Juneau, and we hadn't lived in Juneau 30 days.

Q. That clerk challenged you because you hadn't lived in Juneau 30 days?—A. Seemed to be.

By Judge WICKERSHAM:

Q. You thought you could vote because you had lived in the division 30 days?—A. It was my understanding from the man I talked to that I had a right to vote anywhere within the division and that is the reason I went to vote.

Q. But you did not get to vote anywhere on election day?—A. No; I didn't.

By Attorney ZEIGLER:

Q. When Mr. Roth said it was a matter which way the law was decided, he didn't know how you intended to vote?—A. I expect not; we were sitting in the smoking room discussing various things.

J. W. JONES.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

DEPOSITION OF SAMUEL S. KINCAID.

Mr. and Mrs. KINCAID sworn:

Mr. Kincaid called.

Attorney COSGROVE. We object to the taking of his testimony.

Attorney MARSHALL. Notice has been given at Juneau, regularly to the agent of Mr. Sulzer.

Attorney COSGROVE. No notice has been received by us and if notice were given it was in much too short a time to enable us to prepare for cross-examination.

By Attorney MARSHALL:

Q. Mr. Kincaid will you state your name?—A. Samuel S. Kincaid.

Q. Where do you reside?—A. At the present time in Ketchikan, Alaska.

Q. Do you live in the city or outside the city limits?—A. Outside the city limits.

Q. Up to the power house?—A. Yes, sir.

Q. When did you take up your residence here?—A. March, 1918.

Q. And on November 5, 1918, did you vote in the Territory of Alaska?—A. Yes, sir.

Q. And you had been here at that time only during the period between March and the fall, November, 1918?—A. Yes, sir.

Q. Where did you cast your vote?—A. Charcoal Point.

Q. That is just in the outskirts of Ketchikan?—A. I believe so.

Q. Did you know at that time you had no legal right to vote?—A. Never thought anything about it; thought I was right because I didn't vote from the time I left until I got back; never established a residence at any other place.

Q. You had previously lived here?—A. Yes, sir.

Q. How long before?—A. Well, I came down here and lived here continuously since 1912.

Q. Since 1912 you lived here?—A. Until 1916.

Q. When in 1916 did you leave Alaska?—A. In September.

Q. Where did you locate when you left here?—Reno, Nev.

Q. What was your occupation down there?—A. Caretaker of real estate.

Q. When living there did you own a home here in Alaska or any property?—

A. No, sir.

Q. Your family went down there with you at the time?—A. Yes, sir.

Q. And remained there during the same time?—A. Yes, sir.

Q. How did you come to vote on election day, were you solicited to vote?—

A. No, I don't think the vote was solicited; I came down and started to come up here to the council chambers, and they told me I would have to go Charcoal Point; and I said I didn't care enough about either one of the candidates to walk that far to vote for them and they said they would take me down. I think Mr. Sharpe—I met Mr. Sharpe and he knew if I voted I would vote for Sulzer because I had expressed my opinion as to Sulzer, and he took me down to Charcoal Point, I and my wife, and we voted.

Q. Mr. Sharpe took you down there and you said he knew you would vote for Sulzer?—A. I suppose he thought I would; he didn't ask me; there was nothing said about it.

By Attorney COSGROVE:

Q. You don't have to tell who you voted for if you don't care to?—A. I have expressed it openly, I have said I did vote for Mr. Sulzer.

Q. You haven't yet testified whom you voted for.—A. So it is no use—

Q. Prior to last election?—A. I have here, too, I signed an affidavit that I did vote for Mr. Sulzer.

By Attorney MARSHALL:

Q. And as a matter of fact you did vote for Mr. Sulzer?—A. Yes, sir.

Q. Mrs. Kincaid went with you to vote?—A. Yes, sir.

Attorney COSGROVE. Have you that affidavit, Mr. Marshall?

Attorney MARSHALL. I have a copy of it.

By Attorney COSGROVE:

Q. Would you mind letting me see it? [Same handed over.]

Q. When you left here, Mr. Kincaid, and went south the last time, you didn't intend to take up any residence in Nevada; you lost no voting rights in the city of Ketchikan, while gone?—A. Yes, sir.

Q. Was it your intention to return to Alaska when you went down there?—

A. I didn't intend to return to Alaska.

SAMUEL S. KINCAID.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

#### DEPOSITION OF MRS. J. A. KINCAID.

Mrs. KINCAID, who had been previously sworn, called.

By Attorney MARSHALL:

Q. Your name is Mrs. J. A. Kincaid?—A. Yes.

Q. And you are the wife of Mr. Kincaid, who has just testified?—A. Yes, sir.

Q. And you also came to the Territory of Alaska in March, 1918, and previous to that time had been living here for some time, in the neighborhood of two years?—A. Yes, sir.

Q. And when you went away from the Territory of Alaska you left behind you no property and no members of your family?—A. No.

Q. And on election day, November 5, 1918, you voted at Charcoal Point?—A. Yes, sir.

Q. Can you tell me who you voted for at that time?—A. No, sir; I couldn't.

Q. You told me before you didn't remember?—A. No; I don't remember.

Q. Was there any disagreement between yourself and Mr. Kincaid as to the merits of the respective candidates?—A. No; we didn't talk it over.

Q. Just voted?—A. Yes.

Q. What would be your impression as to whom you voted for at that time?—

A. I didn't know either gentleman, so I couldn't say which one I voted for.

Q. Were you and Mr. Kincaid in agreement with one another?—A. We didn't talk it over.

Q. You didn't discuss it?—A. Never discussed it.

Q. He didn't talk with you as to whom he voted for?—A. No.

Q. And you have no recollection?—A. No; I couldn't hold up my hand and say which one I voted for.

Q. You went to the polls without any intention or desire of expressing any preference?—A. I didn't have any preference.

Q. But you, notwithstanding, felt a disposition to vote?—A. I didn't know which I would vote for, Mr. Wickersham or Mr. Sulzer.

Q. You didn't consider the matter serious enough to give consideration to?—A. We didn't talk it over. My husband phoned up for me and after that we didn't talk about it.

Q. What have been your political affiliations, if you had any?—A. I haven't had any.

Q. Had you never discussed the merits of this campaign with anyone at all or heard anything about it?—A. No; nothing except what I had heard about the Wickersham and Sulzer controversy.

Q. From what you heard about that controversy would you have any sympathy or prejudice any way?—A. No.

Q. Formed no opinion?—A. Formed no opinion whatever.

Q. But you felt as an American citizen you ought to exercise your right to vote?—A. Yes.

Q. Even if you did it blindly—didn't you state to me at the time I took your affidavit, although you were not positive, you believed you voted for Sulzer?—A. I couldn't say that; I don't remember. At the time I couldn't say which I voted for.

Q. But you told me you believed—A. I don't remember whether I told you that or not.

Q. You read the affidavit over when you signed it?—A. Yes.

Q. And you made, and I made for you an addition to it?—A. Yes; I remember that.

Q. And didn't I write in with your consent that you believed you voted for Sulzer?—A. I think you did.

By Attorney COSGROVE:

Q. You have no impression as to how you did vote?—A. I couldn't remember.

Q. You do remember about that time Wickersham was a very prominent name in Alaska?—A. Well, I remember Mr. Sulzer was, too.

Q. If Mr. Marshall had asked you if it wasn't likely you had voted for Mr. Wickersham, you would probably make the same reply?—A. Well, I suppose I would, I don't remember who I voted for. I couldn't say.

Mrs. J. A. KINCAID.

Subscribed and sworn to before me this 11th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL N. WINSTON.

Adjourned until 8 p. m.

#### DEPOSITION OF E. A. HEATH.

KETCHIKAN, ALASKA, August 15, 1919.

Mr. HEATH called and sworn.

Judge WICKERSHAM. Please state your name, Mr. Heath.

Attorney COSGROVE. We object on the ground of not having received any notice of the taking of his deposition.

Judge WICKERSHAM. Notice has been given of course to the attorney in Juneau.

Attorney COSGROVE. If that is so I am not aware of it.

Judge WICKERSHAM. And I told you gentlemen, in private conversation, of course.

Attorney COSGROVE. You didn't say this witness would be here.

Judge WICKERSHAM. I thought I did that evening.

Attorney COSGROVE. You thought you did; you recall now you didn't?

Judge WICKERSHAM. I don't recall anything about it.

Attorney COSGROVE. You mentioned Mr. Althouse, but not anybody else.

Attorney ZEIGLER. You mentioned Mr. Althouse to me; he is the only one.

Mr. HEATH. A. E. A. Heath.

By Judge WICKERSHAM:

Q. How old are you?—A. Sixty-two.

Q. Where do you reside?—A. Charcoal Point.

Q. How long have you resided in the Charcoal Point precinct?—A. About 12 years.

Q. You have a homestead down there?—A. Yes, sir.

Q. And you reside on your homestead?—A. Yes, sir.

Q. You were there on November 5, 1918, at the time of the general election?—

A. I was.

Q. What were you doing that day Mr. Heath?—A. Judge of election.

Q. Do you know Mr. Charles A. Sulzer?—A. I did.

Q. Or did you at that time?—A. I did.

Q. Do you know whether he voted at Charcoal Point precinct on that day?—

A. He did.

Q. Do you know whether he resided at Charcoal Point precinct at that time?—

A. He did not.

Q. Do you know where he did reside?—A. He resided over at the mine, Sulzer mine.

Q. How far from here?—A. Well, owing to what route you travel, I guess they figure by way of the portage, it is much shorter.

Q. About 60 miles?—A. Yes; something like that.

Q. From Charcoal Point precinct?—A. Yes.

Q. There is a Sulzer precinct is there not?—A. Yes.

Q. And he resided in that precinct?—A. Yes.

Q. How long have you known Mr. Sulzer?—A. Five or six years.

Q. Did you on that day know a man by the name of A. Van Mavern who voted at Charcoal Point precinct?—A. I wouldn't be positive.

Q. Was there any such man residing in the Charcoal Point precinct?—A. Not that I know.

Q. And if a man by that name did vote he isn't a resident?—A. To the best of my knowledge no such man resided there, though he might in the Charcoal Point precinct, I don't know. The precinct includes some of the other islands, over to Gravina and everything outside the Ketchikan precinct, doesn't it? But I know no such man.

Q. Do you know that there was an Indian voted there that day by the name of Nix, I think his name is George A. Nix?—A. There was such a man went and voted.

Q. Had you ever seen him before?—A. I don't think so.

Q. Do you know where he resided?—A. He claimed to reside on Prince of Wales Island.

Q. Did he reside in the Charcoal Point precinct?—A. No.

Q. Who brought him in there, do you know?—A. No; I wouldn't be positive about that. They were bringing them down in cars, but I wouldn't be positive he was brought in a car or not; there was quite a bunch of fellows came in at the time.

Q. Isn't it true that Mr. William T. Mahoney, the commissioner in this district, was very busy at that time bringing people to vote?—A. Yes; he brought them down several different times.

Q. Do you know whether he brought Nix down?—A. I wouldn't be positive; my impression is he did.

Q. Do you remember some objection made to Nix's voting?—A. Yes; there was a watcher there that objected to his voting.

Q. Who was that, if you remember?—A. Old man Althouse was the watcher, and he left at one time and went to dinner, and Oliver took his place, and I wouldn't be positive whether Oliver or Althouse was there at the time.

Q. Do you remember that Nix swore in his vote?—A. Yes.

Q. What oath did he take, do you know?—A. The printed oath that they usually take; Austin read it to him.

Q. And he swore to that oath?—A. Yes.

Q. It is the oath required by the election law?—A. Yes.

Q. United States election law for the Territory? Is that right?—A. Yes.

Q. Had you ever seen Nix in that precinct before?—A. No, sir.

Q. Did he reside in that precinct?—A. No; he resided in Hydaburg, he said.

Q. Where is Hydaburg?—A. Over on Prince of Wales Island.

Q. It is an Indian reservation?—A. I think so.

Q. Over beyond Sulzer post office?—A. Yes, sir; it is in Sulzer precinct, I think.

Q. Mr. Heath, you have a son Bert, have you?—A. Yes.

Q. Did he vote that day?—A. He did.

Q. How long had Bert been in that precinct when he voted?—A. In July before.

Q. Where did he come from?—A. From Seattle up there.

Q. Where had he been for the previous four or five years?—A. In Mexico, Arizona, B. C. country.

Q. British Columbia, you mean?—A. Yes; and Montana.

Q. Had he resided in the Charcoal Point precinct prior to July, 1918, for four or five years previously?—A. No; he had been away.

Q. Did he have any house or dwelling place of his own in that precinct?—A. He did not.

Q. Or any other property?—A. He did not.

Q. Mr. Heath, is it not true your family all supported Mr. Sulzer, did they not?—A. I don't know; I did.

Q. Well, don't you know whether members of your family voted or talked in support of him?—A. I felt pretty well satisfied they were going to support him.

Q. You talked with them frequently?—A. They talked that way.

Q. Including Bert?—A. Yes.

Q. Have you any doubts that all did vote for him?—A. I am pretty well satisfied they did; all my sons and daughters, excepting one; I doubt whether Mr. Lloyd and his wife did.

Q. You don't think Mr. Lloyd did?—A. I think not.

Q. But you think all the rest of your family that did vote voted for Mr. Sulzer, including Bert?—A. Yes.

By Attorney COSGROVE:

Q. You are not very certain of that, Mr. Heath, that they voted for Sulzer?—

A. I have no way of thinking so except their talk; they didn't tell me how they voted.

Q. If you hadn't been a rocked-ribbed Democrat you wouldn't have voted for Sulzer the last election yourself?—A. Well, I couldn't say that Charlie—I liked Charlie Sulzer pretty well as a man.

Q. At that time you were pretty sore at your treatment by the Democratic organization?—A. Well, I was, a little before, sore.

Q. And for that reason you made no effort in Sulzer's behalf?—A. No.

Q. The reason, now, you voted for Sulzer—A. To the best of my recollection.

Q. But you are not certain of it?—A. Yes; I feel pretty certain.

Q. Not dead certain—are you prepared to swear now that you did vote for Charlie Sulzer, feeling how you recollect you did feel sore over the treatment you had received?

Judge WICKERSHAM. I object to counsel's testifying, although he does a very fine job of testifying.

Mr. HEATH. I think I wouldn't have to swear I voted for him.

Attorney COSGROVE. You would not swear you did after you had reflected; you recall your attitude toward the Democratic organization and toward Mr. Sulzer as its head?—A. I didn't feel sore at that time; I did afterwards, Charlie.

Q. You felt sore because you hadn't been nominated as a member for the Territorial legislature, on the ticket as promised?—A. I didn't feel sore about that.

Q. What did you feel sore about?—A. I don't think I felt sore. I don't mind telling you that I didn't think that the Ketchikan Democrats, any of them were getting what they ought to get; I thought they were hogging it all in other localities.

Q. On account of all the Democrats, you felt that way, and particularly on account of the treatment accorded you.

Judge WICKERSHAM. I object to Mr. Cosgrove's testifying and move to strike it out.

Attorney COSGROVE. I want to assist Mr. Heath to get at the facts the best I can.

Judge WICKERSHAM. You better be sworn, then.

Attorney COSGROVE. I can refresh him.

Judge WICKERSHAM. He doesn't require any refreshing.

By Attorney COSGROVE:

Q. Did you talk with any members of your family to know how they were going to vote?—A. Yes.



Q. Did you give them any counsel as to how they should vote?—A. I didn't dare do that hardly. I wanted them to vote for Sulzer, but I couldn't do that.

Q. And you know Mr. Lloyd and his wife voted for Mr. Wickersham?—A. I am pretty certain they said they were going to.

Q. And you don't know how the balance of the family voted?—A. I don't know.

Q. And your boy Bert—I presume your home is your boy's home?

Judge WICKERSHAM. I object to counsel testifying.

Mr. HEATH. That is all the home he had, with me.

Attorney COSGROVE. And that was his residence?

Judge WICKERSHAM. I object to counsel again. You keep managing to lead the witness.

Attorney COSGROVE. This is a cross-examination; I have a right to lead the witness if he will be led.

Q. And at that time you speak of when he was roaming about the country his residence was at your home?—A. The only residence he had.

Q. And his residence had been Ketchikan for four or five years?—A. Yes.

Q. That is what I thought.

Judge WICKERSHAM. I move to strike it out, as it is testimony being given by the attorney.

Attorney COSGROVE. I claim it is legitimate cross-examination on the same facts as brought out by Judge Wickersham.

Q. About this Indian Nix, isn't he one of the Indians that was brought up there and voted by Bob Oliver?—A. I don't remember who brought this Indian in there.

Q. You remember that Mr. Oliver was bringing in a lot of voters and voting them for Wickersham?—A. Yes; I think he brought in a few.

Q. And you can't say whether this was one of the Indians?—A. He didn't bring any Indians.

Q. You remember he brought in several other Indians?—A. If he brought in any—

Judge WICKERSHAM. I object.

By Attorney COSGROVE:

Q. What makes you certain that they were not Indians he brought?—A. Because Oliver was standing inside the room and was one of the watchers. I am not positive whether it was Oliver or Althouse, one of those two men, they were the watchers and they were standing inside the room.

Q. Were any other Indians brought in by Oliver or anybody else challenged?—A. Nix had been challenged.

Q. And what directed your attention so closely to this man Nix?—A. Because they were talking about the legality of this Territorial law, and this Indian claimed to live in Hydaburg on Prince of Wales Island.

Q. What view did you judges take of that law?—A. Went according to the Territorial law.

Q. Went according to the Territorial law?—A. Where they could vote outside the precinct if a citizen of the district.

Q. A division you mean?—A. Division.

Q. If that is so, why did you require him to make an affidavit?—A. The watcher challenged his vote.

Q. Even so, if you took the view that a voter had a right to vote if he had been 30 days in the division, an affidavit was unnecessary?—A. That was the course we took where votes were challenged.

Q. You made them swear that they had been a resident of the precinct 30 days prior to election day?—A. I don't remember how the oath read. Austin read it over to the Indian.

Q. That was in contradiction of the session laws, was it not?—A. I think it was not.

Q. You say that is the view the judges took of the law, you took the Territorial law?—A. Yes.

Q. You don't know how Nix voted?—A. No.

E. A. HEATH.

Subscribed and sworn to before me this 15th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

## DEPOSITION OF CHARLES B. OLIVER.

Mr. OLIVER called and sworn.

By Judge WICKERSHAM:

Q. What is your name?—A. Charles B. Oliver.

Q. What is your age?—A. About 42 years of age.

Q. How long have you resided in the Ketchikan voting precinct?—A. Nine years.

Q. American citizen, of course?—A. American citizen.

Q. Were you here in the Ketchikan voting precinct on November 5, 1918, on the day of the general election for Delegate to Congress?—A. Yes, sir.

Q. What did you do that day in reference to being present at the polls?—

A. I was a watcher at the Ketchikan precinct polls for Judge Wickersham.

Q. What time did you come to the polls that morning?—A. When they first opened.

Q. Do you remember seeing Dudley Allen and his wife here at that time?—A. Yes, sir.

Q. Do you know Mr. Gillis and his wife?—A. No, sir.

Q. You did see Dudley Allen and his wife?—A. Yes, sir.

Q. Did they vote here that morning?—A. Yes, sir.

Q. Where did they vote?—A. At the Ketchikan precinct.

Q. Did you see who came to the polls with them?—A. I was coming down in the morning and the *Jefferson* had arrived a little before that and Dudley Allen and Mrs. Allen and Walter Sharpe, deputy United States marshal, were standing down in front of the Stedman Hotel, and when I arrived at the polls I saw that Deputy Marshal Sharpe and Dudley and Mrs. Allen were at the polls. They had all arrived here and were waiting for the polls to open.

Q. Did they vote?—A. They did.

Q. Was Sharpe present when they voted?—A. Yes, sir.

Q. You spoke about the *Jefferson*, what is the *Jefferson*?—A. A passenger steamer running between Seattle and Skagway.

Q. When did the *Jefferson* arrive—before the polls opened?—A. Yes.

Q. Do you know whether or not Dudley Allen and his wife were on the *Jefferson*?—A. They were on the *Jefferson*. I had heard them say at the polls they were in a hurry so they could continue on to Seattle aboard the *Jefferson*.

Q. Then what happened was that they got off the *Jefferson* and came up and voted and went south on the *Jefferson*?

Attorney ZEIGLER. I object to your testifying and insist that Judge Wickersham be sworn.

By Judge WICKERSHAM:

Q. What are the facts about it?—A. The facts are as stated, that I met them all. I seen Deputy Marshal Sharpe and Dudley Allen and Mrs. Allen on the corner—I don't know the name of the streets—in front of the Stedman Hotel and on my arrival at the polls they were here.

Q. And did they vote?—A. They voted to the best of my recollection. The first two votes that were cast and apparently in a hurry so to vote as I heard them say they were going on through on the *Jefferson*.

Q. Did they go on?—A. Yes, sir.

Q. Did they reside in Ketchikan precinct at that time?—A. No, sir.

Q. Do you know anything about their residence except what somebody told you?—A. Only I know Mr. Allen is the representative of the Tru Blu Biscuit Co.

Q. He is a traveling salesman—a commercial man?—A. That is the brand of biscuits he sells, though I think it is the West Coast or Northwest Grocery Co.

Q. He has no home here in Ketchikan?—A. No.

Q. Has he any other residence here?—A. In Alaska.

Q. In Ketchikan?—A. No; not in Ketchikan.

Q. How much time were you at the polls that day?—A. I was at the polls—I left the polls in the morning for a short time and then I was here until the Wickersham votes was counted about 1 or 2 o'clock in the morning of the 6th.

Q. Where did you go during that period that you were gone?—A. I went to the Charcoal Point precinct.

Q. What for?—A. To find out if they were using the Federal or Territorial law in the Charcoal Point precinct.

Q. How long did you remain there?—A. Only a few minutes; not more than 10 minutes. I had an auto standing outside waiting for me.

Q. Did you take any Indians down there to vote that day?—A. No, sir.

- Q. Anybody else?—A. No.
- Q. Are you positive about that?—A. Absolutely so.
- Q. Do you know George A. Nix, an Indian who voted in this neighborhood that day?—A. I may know him, but not by name.
- Q. Do you remember of his offering to vote here in this precinct, in Ketchikan?—A. I don't know, I have no recollection of that.
- Q. Did you know Mr. Charles A. Sulzer?—A. Yes.
- Q. How long have you known Mr. Sulzer?—A. I have known Mr. Sulzer for four or five years, and I have known of him for the last nine years.
- Q. Did you see him on election day?—A. Yes, sir.
- Q. Where? In the Ketchikan precinct? In this room?—A. Yes, sir.
- Q. Just relate the circumstances of his appearance here and what he did.—A. It was just at the noon hour, between 12 and 1, that Mr. Sulzer came into the polling place, and he was informed that he couldn't vote.
- Q. How did that happen to come up?—A. The question was brought up as to whether he was a legal voter in this precinct.
- Q. Who raised the question?—A. Well, to the best of my knowledge it was one of the judges at his own inquiry, and he was instructed that he couldn't vote. And I remember he made a remark, and he asked the judge, Judge Plumley, who was the city clerk, whether the Territorial election law wasn't good enough for the people of Alaska.
- Q. Was he challenged?—A. Well, they told him he would have to swear his vote.
- Q. What was it he did then?—A. And he went out and didn't swear his vote.
- Q. Do you know whether anybody gave him a copy of the oath to be taken by a challenged voter, to read?—A. I think in the controversy Judge Plumley handed him a copy, and he read it and returned it to the judge, and then he went out.
- Q. He declined to take the oath and left the polling place?—A. Yes.
- Q. Do you know where he went then?—A. No, sir.
- Q. Do you know a man by the name of A. Van Mavern?—A. Yes.
- Q. Did you see him that day?—A. Yes.
- Q. Where?—A. I was on my way to the Charcoal Point voting place and he was returning from there, and I spoke to the Wickersham watcher, Mr. Althouse, and I asked him if he had voted.
- Attorney ZEIGLER. We object to this as hearsay; the witness is giving his testimony from what Mr. Althouse told him.
- Judge WICKERSHAM. It was part of what occurred at that meeting; this man was an official watcher, and it was an inquiry he made about a person who voted from another person who was an official watcher.
- Q. Go ahead.—A. On my arrival at the polls I asked Mr. Althouse if Mr. Van Mavern had voted, and he said he had. And my purpose in going to the polls was to tell Mr. Althouse that the legal voters in that precinct had to reside there for 30 days prior to the election, and I asked him if they had oaths and whether they were swearing them to them down there.
- Q. Did Mr. Van Mavern offer to vote in this precinct?—A. No, sir.
- Q. You don't recall that if he did?—A. No.
- Q. Do you know Mr. Mahoney, this Mr. Mahoney sitting right here?—A. Yes.
- Q. Did you see the man that day?—A. Yes, sir.
- Q. Where did you see him, in the Ketchikan precinct?—A. Yes, sir.
- Q. And Mr. Sharpe, the United States deputy marshal?—A. He was acting as watcher for Mr. Sulzer.
- Q. And what was Mr. Mahoney doing?—A. He acted as watcher after 2.30 in the afternoon for a short time.
- Q. What was he doing the rest of the time?—A. I couldn't say; I was in the polls all day.
- Q. How much of the time were you in this room on that day, acting as watcher?—A. I was here; come in the morning at 8 o'clock, and I was away for about an hour, and then I was here until they finished counting the votes—1 or 2 o'clock next morning.
- Q. Did you go out around town electioneering that day?—A. No, sir.
- Q. You heard Mr. Cosgrove put into the mouth of the witness a while ago that you were bringing lots of Indians down to Charcoal Point and voting them.—A. No, sir; Mr. Cosgrove was mistaken.
- Q. You heard him make that statement?—A. Yes.
- Q. Was it true?—A. No, sir.
- Q. You don't know the Gillises?—A. No.

Q. Speaking about natives, do you know one Herman Ridley; he is a native?—A. Yes, sir.

Q. Do you know who brought him here to the polls to vote?—A. I think he came into the polls with Mr. Sharpe, the deputy marshal.

Q. Did you have anything to do with bringing him here?—A. No, sir.

Q. Do you know Mrs. Steve Ragan?—A. Yes, sir.

Q. Who is she?—A. Wife of the deputy United States attorney.

Q. Do you know how long she had been in this precinct before election day?—A. Just a few days.

Q. How long, about?—A. I couldn't say; she wasn't here long enough to be a regular voter.

Q. Less than 80 days?—A. Yes, sir.

Q. Was she here more than 10 days?—A. I couldn't say.

Q. Do you know where she came from here?—A. I think their home is at Haines, or near Haines.

Q. Where they have a homestead?—A. Yes, sir.

Q. And she voted on election day here?—A. Yes, sir.

Q. What official position does her husband occupy?—A. Deputy United States attorney.

Q. Do you know whether or not he is a Democrat?—A. He is a Democrat.

Q. Was he a supporter of Mr. Sulzer, do you know?—A. Yes.

Q. To what extent?—A. He is a very enthusiastic worker.

Q. To what extent did Mr. Mahoney here and Mr. Sharpe and other officers, including Mr. Ragan, support Mr. Sulzer?

Attorney ZEIGLER. Just a moment. Judge, to what other officers are you referring?

Judge WICKERSHAM. Any others you may know.

Mr. OLIVER. Well, they are known as the Democrat Party; leaders of the Democrat Party, and they were all very earnest supporters of Mr. Sulzer.

By Attorney COSGROVE:

Q. Did you see Mr. Ragan working that day for the Democratic Party or the Republican ticket, on election day?—A. Well, I did to this extent; that he wrote out his wife's oath when his wife's vote was challenged; he wrote out the challenger's oath, the oath for a challenged vote, and personally I know that Mr. Ragan is a very enthusiastic partisan man and it is generally understood he would be working in the interest of Mr. Sulzer.

Q. Didn't you know that prior to election day he had been sick for quite a while with the influenza?—A. But he made it a point to be up on election day.

Q. And you noticed on that day that he was in a very sick condition and very inactive; his enthusiasm was mental entirely; do you remember that?—A. Well, of course, I can't say how active he was outside the polls.

Q. Just how active was he inside the polls?—A. I can state he was very active in regard to Mr. Sulzer, just the same as any other man would be that would be interested in their nominee, and he worked up to what his physical condition would stand. I believe he worked to the full capacity of his physical condition to see that Mr. Sulzer was elected.

Q. Just as you did for Mr. Wickersham?—A. It was a question, probably, of physical ability.

Q. That is why you had the better of it?—A. No; I was not active outside the polls; I was here as a watcher and I believe I did everything I could as a watcher. I was official watcher.

Q. Were you the head of the Wickersham uplift movement on that day or did you look to any superior for instructions?—A. I don't understand your meaning.

Q. Were you the manager of the Wickersham forces?—A. I never have been a manager of the Wickersham forces in Mr. Cosgrove's meaning.

Q. You were simply a watcher that day?—A. A watcher.

Q. For Mr. Wickersham?—A. For Mr. Wickersham.

Q. By whose appointment?—A. Mr. Wickersham's appointment.

Q. You were the head of the labor union at that time, were you not?—A. I believe I was if it was organized then.

Q. You have quite a few Indian members of the labor union?—A. Yes; a good many.

Q. And, of course, you attempted to induce all members of the labor union, who were qualified, to vote for Mr. Wickersham?—A. No; I took no active part in bringing voters to the polls.

Q. Don't you remember bringing any Indians to the polls that day?—A. I didn't bring anyone.

Q. You don't remember, in company with George Brown or Dale Hunt, or either of them or both of them; you don't remember bringing four or five Indians to the polls and voting them?—A. Myself, personally?

Q. Yes; in company with them.—A. On election day I didn't even, to the best of my knowledge, speak either to Mr. Brown or Mr. Hunt. Mr. Hunt and I aren't personal friends.

Q. You now swear you didn't bring any Indians to the polls on that day?—A. Well, I don't know that it is necessary for me to swear, is it?

Judge WICKERSHAM. He is under oath; whatever he says is under oath.

Attorney COSGROVE. Apparently he doesn't understand that, Judge, from the way he answers.

By Attorney COSGROVE:

Q. I just want your statement.—A. I wasn't in company with either of them gentlemen at all on that day. I don't want to make any misstatements. To the best of my knowledge and belief I brought neither white man nor native to the polls.

Q. Nor sent them to the polls?—A. Well, I don't know; I can't remember I sent them; my work, the only thing I remember of doing, besides being a watchman at those polls on election day, was to go down there to Charcoal Point to see Mr. Althouse and to tell him what oath they were taking here and the election law they were using here, and I went down town to buy myself a cigar, and all the rest of the time, to the best of my knowledge, I was here in the polling place.

Q. You went down to Charcoal Point precinct in an automobile, did you?—A. I did.

Q. Anybody with you?—A. No.

Q. How long did you stay there, did you say?—A. No more than 10 minutes.

Q. You remember that this Ketchikan precinct showed a big majority for Wickersham on that day?—A. I do.

Q. How do you account for the big majority for Mr. Wickersham, considering the fact that all the Federal officials were working for Mr. Sulzer, as you say?—A. How do I account for it?

Q. Yes.—A. Well, only it is the inalienable right that any man can vote as he sees fit.

Q. In other words, the Federal officials had no influence on the local vote?

Judge WICKERSHAM. May be they had a very powerful influence.

Attorney COSGROVE. The results didn't show it.

Judge WICKERSHAM. The results did show it.

Attorney COSGROVE. You don't mean to say you would have received all the votes if it hadn't been for the interference of the Federal officials?

Judge WICKERSHAM. I meant to say that the people might have been displeased with the action of the Federal officials.

Attorney COSGROVE. May have been.

By Attorney COSGROVE:

Q. By the way, Mr. Oliver, what position, with reference to this labor union, did you hold at that time?—A. I was organizer.

Q. And you were the president or chairman?—A. No; secretary.

Q. You were the secretary?—A. Yes.

Q. And you had the list of names of members of this union on that day?—A. On that day, no.

Q. Or just prior to that day?—A. Only on the register in a ledger; that was all.

Q. But you and your organization made some preparation for election day, did you not, Mr. Oliver?—A. Personally, I made preparation.

Q. And personally you lined up the organization for Mr. Wickersham, did you not, so far as you could?—A. No; I think it was Mr. Wickersham's own capable work that lined up the organization.

Q. But he wasn't here at that time?—A. No; he was here previous to that time.

Q. And during his absence you continued the work?—A. Not any more than an earnest citizen does.

Q. But you are a stanch Wickersham supporter, are you not?—A. Yes; I have been for a good many years.



Q. And you were giving your best efforts to the development of the Wickersham movement on election day, weren't you?—A. Well, I appreciate Judge Wickersham a great deal.

Q. You don't mind answering my question do you?—A. Only as a watcher.

Q. And for several weeks prior to election day you had been using your best efforts to get the organization in line to vote to a man for Wickersham on election day? I don't say you alone, but in company with others who were members of the organization?—A. Well, I simply thought I was doing the duty of a good citizen.

Q. But you did that, didn't you?—A. Yes; for years before, too.

Q. To the best of your ability?—A. Yes, and to the best interest of Alaska.

Attorney COSGROVE. That is a question.

Judge WICKERSHAM. You don't agree with that?

Attorney COSGROVE. I know people who don't.

By Attorney COSGROVE:

Q. And in your efforts to line up the labor organization, of which you were an efficient head, you figured in the Indians, too, did you not?—A. Well, I didn't figure in so much as I outfigured the Federal officials.

Q. And outgeneraled them?—A. I tried to.

Q. In fact it was due to your efforts in a great measure that Wickersham lined up such a big majority in this precinct?—A. I would feel flattered to know it was true.

Q. That is the way you do feel about it?—A. I don't feel bad about it.

Q. Further, for several years, just prior to this election day, what business have you been engaged in besides being a Wickersham supporter, Mr. Oliver?—

A. I wish the attorney for the opposition would confine himself to other things than personal questions.

By Judge WICKERSHAM:

Q. They have a right to ask that question, what your business is?—A. I am a master mariner.

By Attorney COSGROVE:

Q. Have you worked at it for the last four or five years?—A. Whenever I had an opportunity.

Q. How much of the time are you working at it?—A. The last time I was employed, I was employed for about eight hours.

Q. How long ago was that?—A. That was about a year ago.

Q. And you worked eight hours in the last year?—A. I have worked more than that.

Q. What besides that?—A. Well, taking the attorney's statements, for the opposition, I succeeded in getting a big majority of votes for Wickersham.

Q. And that was the extent of your work?—A. It was work well done.

Q. Prior to last year how had you been employed?

By Judge WICKERSHAM:

I don't think that very important, state what you want to prove and we may admit it.

By Attorney COSGROVE:

We want to prove what inference may be drawn as to the extent of the Federal officials' influence over voters as compared with that of a man who devotes his lifetime to it, taken in connection with the Wickersham majority in this precinct.

Mr. OLIVER. Do you want me to tell the whole story?

Attorney COSGROVE. If you don't make it too long.

Mr. OLIVER. I will state that my country as well as your country was at war and the thing necessary for the country, told to most of the people, to win the war, was the production of food and on account of my influence with the fishermen and as a result of my patriotism, as I see it, I had an idea, and I thought the best thing Alaska could do to be of service to the United States, was to organize the fishermen so we would have them all together in the production of food. And for the time you are stating, and at my own expense, it was a sacrifice to me, I organized the white and native fishermen in southeastern Alaska, for the one purpose of production of sea foods, and regardless of what the attorney might think, I consider it work well done, and I hope my answer will be satisfactory to him.

Q. How old did you say you were?—A. Forty-two.

Q. Well, you remember that the efforts you made to bring the fishermen together and your subsequent action in going to Juneau didn't meet with the approval of the fishermen at large? And isn't it a further fact they refused to let you address the Territorial legislature?

Judge WICKERSHAM. I object to the attorney's filling my record up with such stuff, it is costing me money.

Mr. OLIVER. I will inform the gentleman that I was successful in my efforts before the last legislature.

By Attorney COSGROVE:

Q. But you were not permitted to address the Senate?—A. There was a question arose.

Q. What was it?—A. As to whether I was a representative of the Alaska labor union or not.

Q. How was that determined?—A. Well, I think that the parade that was held on the 4th of July here would show that I was the prime mover in the judgment of most people, and satisfy the citizens of Ketchikan.

Q. Did not the labor union at that time say you were not its representative?—

A. It was simply the personal opinion of the secretary of the union.

Q. But such a wire was sent to the legislature, repudiating you as its head?—

A. Such a wire was sent to a member of the legislature.

Q. From whom?—A. From the secretary of the union.

Q. Now, as to the matter of procedure on election day in this precinct, do you remember to whom the legal questions were addressed when any arose—in other words, who was the adviser of the election board?—A. Well, the authorized attorney.

Q. Who was he?—A. Judge Plumley.

Q. He was an ardent Wickersham supporter?—A. He never told me so.

Q. But you know whether or not he was?—A. I can't say; I wasn't very intimate with him.

Q. Do you know whether he was a Wickersham supporter?—A. I couldn't swear to it.

Q. What is your best opinion?—A. I have none.

Q. Do you sit here and tell you don't know whether Judge Plumley was a Wickersham supporter?—A. I couldn't say.

Q. On your oath?—A. I couldn't state it.

Q. Did Mr. Sulzer have a watcher here all day, do you know, or any part of the day?—A. I questioned the right of Deputy United States Marshal Sharpe, or I asked him for his credentials, and he was a watcher here most of the time, and I think at 2.30 the commissioner, Mr. Mahoney, was here in the hall and Mr. Sharpe went out.

Q. How long was Judge Mahoney a watcher?—A. Only a short time.

Q. Few minutes?—A. I wouldn't state how long a time.

Q. How long was Mr. Sharpe here as a watcher?—A. He was here off and on most of the time; he was very active on election day, in and out.

Q. But he didn't stay here?—A. Yes; he was here a good deal of the time.

Q. Did he stay 10 minutes and go out for an hour or did he stay an hour and go out for 10 minutes?—A. It has been quite a while ago; I wouldn't just like to make any statement on that point.

Q. I understood you to say you know Dudley Allen and his wife?—A. I did.

Q. Have you known them long?—A. I have seen them traveling through Alaska.

Q. Do you know whether or not they have been residents of Alaska for several years?—A. I know they haven't been residents of Ketchikan.

Q. Do you know whether or not they have been residents of Alaska for several years?—A. I don't know what you mean by several years; I don't know how long they have been in Alaska.

Q. Would you object to the right of Mr. Allen and his wife to vote except they may have voted in the wrong precinct?—A. Well, I am not an authority on that question.

Q. You are testifying?—A. I am testifying just what the law states—that a man must reside 30 days in the precinct.

Q. Do you know how long Mr. Allen and his wife had been in Ketchikan prior to election day?—A. Well, as a resident of Ketchikan, I would state he never had been here; only a traveling salesman, in and out.

Q. Do you know how long he had been in here as a traveling salesman prior to election?—A. No; I couldn't state.

Q. Then the statement you made which seemed to indicate they had just stepped off the south-going boat is not correct, is it?—A. That is the correct statement.

Q. Were you here at a former hearing wherein Mr. Hunt testified that he had been here several days prior to election day?—A. This is my first appearance.

Q. You still say that Mr. Allen and his wife stepped off the *Jefferson* for the purpose of voting and then went on the *Jefferson* and went direct to Seattle?—A. They had arrived in Ketchikan on the *Jefferson* that morning.

Q. That very morning?—A. And went direct to Seattle on the same boat.

Q. And then Mr. Hunt's statement that he had been here several days prior to election day is incorrect?—A. I don't know anything about Mr. Hunt's statement.

Q. You don't know how Mr. Allen and his wife voted, of course?—A. Well, as a man who would be interested in a nominee's election, I would naturally believe he voted for Sulzer.

Q. Because he was seen with Mr. Sharpe that morning?—A. Because he was brought in by a Sulzer worker.

Q. And every man who walked to the polls with you that day of election you are sure voted for Wickersham?

Q. You believe because a man is brought to the polls by a nominee worker he, therefore, votes for that nominee?—A. From the standpoint of a politician I would be very disappointed if he didn't.

Judge WICKERSHAM. You are asking about a hypothetical matter and not a fact, and I object to it.

By Attorney COSGROVE:

Q. You have often found that a man might walk or ride to the polls with a worker for a political candidate and still vote against him?—A. I don't know about those things.

Judge WICKERSHAM. I object to that as not having anything to do with the facts in the case.

CHAS. B. OLIVER.

Subscribed and sworn to before me this 15th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

#### DEPOSITION OF J. GUDDART.

Mr. GUDDART called and sworn.

By Judge WICKERSHAM:

Q. You may state your name.—A. J. Guddart.

Q. How old are you, Mr. Guddart?—A. About 52.

Q. How long have you resided in Alaska?—A. Since 1896.

Q. How long have you resided in the Ketchikan voting precinct?—A. About four years.

Q. You had resided for more than three years here on November 5, 1918, the date of the election?—A. Yes.

Q. Did you vote here that day?—A. I did.

Q. Are you a citizen of the United States?—A. Yes, sir.

Q. When were you made a citizen of the United States?—A. I don't know, about 1894 or 5.

Q. Where?—A. Portland, Oreg.

Q. Have you got final papers?—A. I have.

Q. Where are they?—A. In my pocket.

Q. Let me see them, please [paper handed over to Judge Wickersham].

Q. You are the John Guddart mentioned in these papers, are you?—A. I guess so.

Judge WICKERSHAM. I ask counsel for the other side to examine final papers of John Guddart, the witness on the witness stand.

Q. Mr. Guddart, how did you come to have these papers, when did you get them? I noticed you take them out of an envelope, when did you get these papers?—A. I got them last summer, the new copy.

Q. Who assisted you to get them?—A. George Grigsby.

Q. George B. Grigsby?—A. Yes, sir.

Q. The gentleman who now claims to be the Delegate from Alaska?—A. Yes, sir.

(Attorneys for contestee confer and decide to ask no questions.)

Attorney COSGROVE (to Judge Wickersham). You couldn't suggest a question for us to ask him, could you?

Judge WICKERSHAM. In answer to counsel's funny inquiry I will state that in the answer of George B. Grigsby the allegation is made under oath that this man voted here and is not a citizen of the United States.

Attorney COSGROVE. That is evidently a mistake.

Judge WICKERSHAM. Evidently.

JOHN GODDART.

Subscribed and sworn to before me this 15th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

DEPOSITION OF C. D. SCHELL

Mr. SCHELL called and sworn.

By Judge WICKERSHAM:

Q. Mr. Schell what is your name?—A. C. D. Schell.

Q. How do you spell it?—A. Schell.

Q. How old are you, Mr. Schell?—A. Fifty years.

Q. Where do you reside?—A. Ketchikan, Alaska.

Q. How long have you resided here?—A. About two years and one month.

Q. Did you reside here on November 5, 1918, at the time of the general election?—A. I did.

Q. Did you reside here on June 3, 1919, at the time of the special election of Delegates for Congress?—A. I did.

Q. Do you know one C. E. Hibbs?—A. I do.

Q. How long have you known Mr. Hibbs?—A. A little over two years.

Q. What has been his occupation since you have known him?—A. Government teacher at Klawak, Klawak, Alaska.

Q. Did you meet him here in Ketchikan on June 3, 1919?—A. I met him on election day.

Q. June 3, 1919?—A. That was the election day, I didn't remember the date, it was on election day.

Q. Did you have any conversation with him about voting on that day?—A. I did.

Q. Just relate that conversation will you?—A. We were talking things over and the subject of the voting of Mr. Sulzer on the last election came up, in fact, I brought the matter up, and I told him Mr. Sulzer had voted at Charcoal Point on the last election. Mr. Hibbs said he didn't believe it and I referred him then to the election office. I said: "If you don't believe my statement, you can find out there," and Mr. Hibbs said: "Well, if he did vote there he did something he had no right to do." And that was the main point of the conversation, in respect to that. We had another conversation—

Attorney COSGROVE. We believe this ought not be admitted and move to strike it out.

By Judge WICKERSHAM:

Q. Was Mr. Hibbs friendly to Mr. Sulzer?—A. Yes.

Q. Did you learn later that day whether Mr. Hibbs, himself, had voted or not?—A. I did.

Q. Where had he voted?—A. Charcoal Point.

Q. Did you have any subsequent conversation with him?—A. Yes. I went down there to the hotel and saw Mr. Hibbs in there, and I went in and I told him he had made a mistake in casting that vote, that he had put an iron collar around his neck, that he knew he had no right to vote and he began to try to excuse himself, and Deputy Marshal Sharpe assisted him and tried to prove that he had a perfect right to vote at Charcoal Point stating that it was according to the laws of Alaska and that I didn't understand the laws.

Q. Do you know where Mr. Hibbs lived, what precinct he lived in?—A. He told me he had left; he was still in the Government service but he had been appointed postmaster at Craig, and that he was starting into the store business there in Craig and building his building, I believe at that time.

Q. It was true he had resided in Klawak as Indian agent for a year or more?—A. Yes; several years.

Q. Do you know whether he did reside at Charcoal Point precinct or not?—A. Not since I came to Ketchikan.

Q. As Indian agent he was in charge of the Bureau of Education work?—A. He is principal of schools and as principal of schools he is superintendent of the town.

Q. At Klawak?—A. Yes.

Q. In the Craig voting precinct?—A. I suppose it is in the Craig precinct.

By Attorney COSGROVE.

Q. You are referring now to the primary election, are you, Mr. Schell?—A. No, special election.

Q. The special election, you are not testifying about the election of November 5, 1918?—A. No.

Q. This very last election?—A. Yes.

Q. Mr. Wickersham was not a candidate at that time?—A. No.

Q. This conversation you speak of having had with Mr. Hibbs, it got pretty hot on both sides?—A. Which conversation?

Q. The one when Sharpe was present.—A. I wouldn't call it hot. I still thought I was correct and would think so until I saw some law to prove otherwise. There wasn't any anger on either side, if that is what you mean by hot.

Q. In that election you speak of Mr. Grigsby and Mr. Jones were the candidates?—A. Yes.

Q. And you were the manager of the Jones campaign?—A. Chairman of the committee.

Q. For Jones's campaign?—A. Yes.

Q. And are you the husband of Edith Clark Schell?—A. I am.

C. D. SCHELL.

Subscribed and sworn to before me this 15th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

#### DEPOSITION OF TAYLOR ALTHOUSE.

Mr. ALTHOUSE called and sworn.

By Judge WICKERSHAM:

Q. You may state your name.—A. Taylor Althouse.

Q. Where were you born?—A. Wilmington, Will County, Ill.

Q. How old are you?—A. I was born 1851, 14th day of January.

Q. Are you a married man?—A. Yes.

Q. How long have you resided in Alaska?—A. I came to Ketchikan in 1902; January, 1902—some time in January, 1902.

Q. And how long since January, 1902, have you resided in Charcoal Point voting precinct?—A. I have been living there since the fall of 1913.

Q. About five years in Charcoal Point voting precinct?—A. Yes; since fall of 1913; made that my home, built there.

Q. You have a residence there?—A. Yes.

Q. Were you there on November 5, 1918, on the day of the general election for Delegate to Congress in Alaska?—A. I was.

Q. What did you do on that day?—A. I was acting as official challenger for that precinct.

Q. For what party?—A. Republican Party.

Q. Did you see Mr. Bob Oliver there that day?—A. I did for a few minutes.

Q. For how long?—A. Well, he came in there for a few minutes and wanted to know what kind of an oath I was challenging on, and I told him I was going by the statute, and I pulled out the statute that had been handed to me, and I said that was governing us.

Q. What statute did you show him, Territorial law?—A. Yes, sir. And then he showed a copy of the oath they were using down in Ketchikan and appealed



to the judge of election about it, and they treated it lightly, and he finally went away cross about it, apparently, and was dissatisfied. I never acted in that capacity before and I didn't know where I stood, so I appealed to the judges then as to what they were going to do about this oath he showed us, and Austin says we know what to do, and then he picks up the oath and looks at it awhile, this one Oliver said he was using up town, and Austin speaks up and grins and says to Mr. Heath, who was one of the judges, I guess we will have to use this form of oath, and we did use it.

Q. What time was that?—A. Early in the day.

Q. In the morning?—A. After this man who had come down, a traveling man.

Q. Van Marvin?—A. Yes, sir; that was his name; he had come down and voted and Mr. Oliver come to Charcoal Point shortly after and wanted to know if I didn't challenge that man, and I said no.

Q. Did Mr. Oliver bring any voters there at that time?—A. I didn't see any.

Q. Weren't you there?—A. I was about one hour out at noon, and I had a man in my place; he would know.

Q. Were you acquainted with Mr. Charles A. Sulzer on that day?—A. Yes.

Q. He was a candidate for Delegate to Congress?—A. Yes.

Q. Was Mr. Sulzer at the Charcoal Point precinct that day?—A. Yes, sir; he come around.

Q. What did he do?—A. He came in and Mr. Mahoney came with him.

Q. Who is Mr. Mahoney?—A. Judge Mahoney.

Q. This gentleman sitting here?—A. Yes, sir.

Q. This man, Mr. Mahoney?—A. Yes, sir; he introduced us and we both acknowledged we knew each other, and after a few joking remarks had passed between Mr. Mahoney and myself, then Mr. Sulzer went to vote and prepared his ballot and come and voted and I didn't challenge him.

Q. Do you know whether Mr. Sulzer resided in that precinct at that time?—A. He did not.

Q. Had he ever resided there?—A. Not in my time.

Q. Do you know where he did reside?—A. Yes; from general knowledge he resided in Sulzer precinct.

Q. In what part of the Territory is that?—A. West coast of Prince of Wales Island.

Q. About how far from Ketchikan or Charcoal Point precinct is that?—A. Sixty or eighty miles; I only know from hearsay; I can't say about that, I never saw over there in that section of the country.

Q. Do you know Mr. Mahoney who is sitting here?—A. Yes, sir.

Q. What official positions does he hold?—A. He is known as commissioner here and recorder, I believe.

Q. Ex officio justice of the peace?—A. Well, I know, the fact his being commissioner covers that; all of them.

Q. Deputy clerk of the United States district court?—A. Well, I suppose so; I wouldn't be in a position to know about those things. Of course, he is recognized as an officer, justice of the peace, and commissioner and recorder.

Q. You say Mr. Mahoney brought Mr. Sulzer to Charcoal Point?—A. Yes, sir; in his automobile.

Q. Who else came with Mr. Mahoney at that time?—A. Really I couldn't be definite, he brought so many people at different times. Sometimes three or four—as high as four came with Mr. Sulzer, I think, at that time; yes, it was that time three others came besides Mr. Sulzer.

Q. Who were these three other persons?—A. That old man; I have known him for a number of years by hello; I don't know his name.

Q. Did he bring J. A. Cochran?—A. Yes, sir; that is the man.

Q. Who is J. A. Cochran?—A. He is a man that works around; he has been on the lighthouse; that is hearsay.

Q. Was he a lighthouse keeper at Lincoln Rock?—A. Yes, sir; as I know.

Q. Where is Lincoln Rock?—A. Over toward Wrangell.

Q. It is in Charcoal Point precinct?—A. No; it is nearer Wrangell than it is here.

Q. Did Mr. Cochran vote?—He did; I told him first I was going to challenge him, but I didn't.

Q. Do you know who he voted for?—A. Yes; he told me how he voted.

Q. Who did he vote for?—A. For Sulzer.

Q. Did he tell you he offered to vote anywhere else that day?—A. Yes.

Q. Where?—A. In Ketchikan, and they challenged him.

Q. Did he tell you he voted here or just offered to vote?—A. Offered to vote.

Q. And they challenged him?—A. Yes.

Q. And he came down to Charcoal Point? Now, Mr. Althouse, how far is Charcoal Point from the main part of Ketchikan town?—A. Would you call the post office the main part?

Q. Call the post office the main part.—A. Practically a half a mile.

Q. Ketchikan is an incorporated town?—A. Yes, sir.

Q. And how far is the Charcoal Point voting precinct, the place where you vote, from the voting place in Ketchikan? This room right here?—A. I think 3,000 feet.

Q. Something over a half a mile?—A. Something like that.

Q. Charcoal Point voting precinct was just outside the incorporated town of Ketchikan?—A. Yes.

Q. To the north?—A. Yes.

Q. Is there a road of any kind, any sort of a road connecting these places?—A. Yes; auto road runs from here right down, and a plank road most all the way.

Q. Runs right along the beach?—A. Yes, sir.

Q. Are there any other roads connecting them except that one?—A. I don't know of any.

Q. Just one single plank road along the beach?—A. Yes, sir.

Q. How many people do you think were brought to Charcoal Point precinct that day to vote from Ketchikan, from the Ketchikan voting precinct?—A. I didn't tally them.

Q. Who brought them?—A. Mr. Mahoney brought all I saw come in.

Q. Did you see Bob Oliver bring any?—A. I did not.

Q. Now besides Mr. Sulzer and J. A. Cochran, the lighthouse keeper at Lincoln Rock, who else did Mr. Mahoney bring there?—A. One man, a milkman; he lives across the channel here, I don't recall his name; they told me, the judges that were there. I come near challenging him.

Q. Who brought Van Marven down there?—A. Mr. Mahoney; he was the first man Mr. Mahoney brought down—if that is the drummer.

Q. Do you know where Mr. Van Marven resided when he was brought there?—A. I asked the judges who he was, and they told me he was a drummer.

Q. Do you know whether he lived at Charcoal Point?—A. No; that is the first man I had doubts about. Well, he was questioned by the men around there; they didn't say anything about having to be in the precinct 30 days, so I didn't challenge him. They told me he belonged in Juneau.

Q. Were you informed whether or not Mr. Van Marven had offered to vote anywhere else?—A. I was afterwards. Somebody told me—I don't recollect who it was—that he had offered to vote up here. I remember him distinctly, because I was thinking of challenging him.

Q. Was he a resident of that precinct?—A. I knew he was not.

Q. And Mr. Mahoney brought him there?—A. When I was sitting here a while ago I said he did, and Mr. Mahoney shook his head. I don't intend—I don't want to make any misstatements, but I was under the impression he brought him. There was a lady along with him, and somebody told me afterwards she was a school-teacher.

Q. Where was Mr. Mahoney sitting when he shook his head?—A. He was sitting where they are at the present time.

Judge WICKERSHAM. I object to Mr. Mahoney sitting in the room shaking his head at the witnesses and asserting his influence.

Attorney COSGROVE. No doubt the action was involuntary; the statement isn't true.

Judge WICKERSHAM. I don't think the counsel ought to make such a statement.

Attorney ZEIGLER. Your own witness acknowledges what he stated is not true.

Mr. ALTHOUSE. Before he came in there—Mr. Van Marven—the telephone bell rang in the storeway.

By Judge WICKERSHAM:

Q. In the Charcoal Point voting place?—A. Yes; and Mr. Austin got up and went to the phone and had a conversation with some one; and he was one of the judges, you know; and shortly afterwards Mr. Van Marven came in, and

after I heard he had been challenged up there I presumed they inquired if he could vote down there.

Q. Did you see an Indian there that day by the name of George A. Nix?—

A. I did.

Q. Did he vote?—A. He did.

Q. Who brought him?—A. Mr. Mahoney brought him in there.

Q. In his automobile?—A. Yes, sir.

Q. Did you challenge the Indian?—A. I did.

Q. On what ground—that he wasn't a resident of the precinct; didn't belong in the precinct?—A. He came in there, and I said, "I challenge that man," and Mr. Mahoney said, "On what ground?" And Mr. Mahoney and I are acquainted, and I said, "On account of the company he is keeping," meaning he was a Democrat. I intended nothing personal, and Mr. Mahoney told me then that I would have to give a reason, and I said, "He is not a resident of the precinct, see." That is the way it started.

Q. You challenged him. What happened then?—A. Then Mr. Austin put up questions as to how long he had lived in the Territory, and he was a native. he claimed; and he stated he lived on the west coast of Prince of Wales Island—whether it was, what precinct, but I think it was Sulzer. Anyhow, he belonged on the west coast of Prince of Wales Island; and then Mr. Austin asked him how long he had been in the precinct. He couldn't seem to understand, and Mr. Austin put it this way, "How long have you been in town?" And he said he came in night before last on a launch and tied up to the wharf. Then Austin reads this oath to him, the challenged oath, and he stood there as that [indicates how man stood], and he shoved it up to him and said, "There it is if you want to sign it."

Q. He shoved it over to the Indian?—A. The Indian was standing beside of Mr. Austin, between Austin and me, at the booking place, and then he started around there [indicating].

Q. The Indian?—A. Yes; the Indian. He shoved the oath over there [indicating] and said, "There it is if you want to sign it," and he stood there saying nothing; and Mr. Mahoney says to him, "Sign that paper"—in that manner. Then he started around and—

Q. The Indian started around?—A. Yes.

Q. He did sign it?—A. He did.

Q. And was he sworn to it?—A. When he signed it he was not.

Q. I want you to tell what happened.—A. Austin read it to him and in that oath he said he had been in the precinct 30 days and when he started around I said that ain't right to make that man perjure himself, he don't know what he is signing.

Q. Well, he did sign it?—A. Mr. Mahoney said I will have you and Bob Oliver before the grand jury for voting Indians illegally all day.

Q. Had you voted any?—A. I did not; I replied that all the Indians I had seen that hade been in here he brought in.

Q. Mr. Althouse, had you been out of that place to get anybody to vote?—A. No. I did, I went down and got a neighbor, when I went to dinner to my house I called at Hoadley's and got them to come up and asked them to; they did come up and vote.

Q. How many?—A. Mrs Hoadley, her husband, and one brother, two brothers.

Q. Were they Indians?—A. No, sir; white people, been here 18 years.

Q. I will ask you again if you left the polling place to get any Indians to come and vote?—A. No.

Q. Then why did Mr. Mahoney threaten to have you before the grand jury for bringing Indians to vote;—A. I don't know unless it is a bluff. He hadn't seen me doing it; when he got there I was standing at the polls.

Q. How much time did Mr. Mahoney spend around that place on election day?—A. He was there many times.

Q. What was his attitude toward the election officers there and voters and people in general?—A. Well, I saw him collar that Indian; he had to go across the room to make out his ballot, he had a copy in his left hand, he goes over there with a blank ballot in his left hand—

Q. Worker's ballot?—A. And the ballot he was going to fill out in his right hand.

Q. That is the official ballot?—A. Yes. He had a piece of paper, yellow piece of paper, it was like the copy I had seen.

Q. Was it a worker's ballot?—A. Yes; in the left hand and he goes over there; I could see him from where I was standing at the time, and I suppose

he made out the official ballot and Mr. Mahoney went to look over his shoulder and then he walks back to the polling place and sees the ballot put in there and then they went out and then back to town.

Q. Mr. Mahoney was working for Mr. Sulzer that day at the polls?—A. He was talking Sulzer.

Q. Do you know whether Mr. Mahoney had formerly been employed by Mr. Sulzer?—A. Yes; I heard him say so at a public meeting one time.

Q. Mr. Mahoney holds a Democratic office here?—A. Yes.

Q. And was friendly to Sulzer, all that?—A. Yes.

Q. Where did Nix live, in the Charcoal precinct?—A. No, he didn't claim to—on the west coast of Prince of Wales Island.

Q. Could Mr. Mahoney see his ticket when looking over his shoulder?—A. He could see it. He was very nervous all day. He would walk pretty close several times. He just went and looked back and forth.

Q. Who was this?—A. Several voters, when several men voted he had brought down.

Q. He was taking a great interest in the voters and how they voted?—A. Yes, sir.

Q. Charcoal Point voting precinct is in the Ketchikan recording district, is it?—A. Yes, sir.

Q. Do you know who appointed the election officers in the Charcoal Point voting precinct for that election?—A. Yes; I understand the commissioner has the appointment.

Q. And the commissioner is Mr. Mahoney?—A. Mr. Mahoney. The judges of election told me Mahoney had attended to that matter—we talked a great deal when there was nothing else to do.

Q. Were there any challenges made to any of these persons whom Mr. Mahoney brought to the Charcoal Point voting precinct? Weren't any of them challenged?—A. Yes, sir.

Q. How many of them?—A. I don't recollect.

Q. Were any of the challenges sustained?—A. Yes. Tailor, I have forgot his name; a Jewish-looking man, Slovenian he looks like.

Q. How many challenges were sustained against people Mahoney brought there?—A. I am not clear, only those two—Indian and the tailor.

Q. But as to the Indian, the challenge was not sustained; he was allowed to vote?—A. Yes; and the tailor also.

Q. But the Indian said he lived over in Sulzer voting precinct?—A. West coast of Prince of Wales Island; I think it was Sulzer precinct.

Q. How many persons were brought down there from Ketchikan to vote that day by Mahoney?—A. A good many.

Q. Do you know most of them or were many of them strangers?—A. Yes; now, there was at the time that Sulzer came down, there was three besides Sulzer; one of them was that tailor and the other man I mentioned here.

Q. Cochran?—A. Cochran. And that other man, he was turned down.

Q. He wasn't permitted to vote?—A. No; he did not vote.

Q. Why didn't he vote?—A. He wouldn't take the oath.

Q. Do you know where the tailor was from?—A. He was from Seattle; naturalized in Seattle.

Q. Did he live in the Charcoal Point precinct?—A. I never saw him only around Ketchikan. I don't know where he sleeps and eats; I never saw the man in the Charcoal Point precinct.

Q. You were well acquainted out there?—A. Around back and forth every day.

Q. And knew the people?—A. Yes, sir.

Q. Did he reside there?—A. No; he didn't.

Q. Do you remember being in the Stedman Hotel the night before election?—A. Yes, sir.

Q. Did you see Mr. Mahoney there?—A. Yes.

Q. What was he doing?—A. Electioneering for Mr. Sulzer and offering bets that Sulzer would be elected; making bets. He wanted to make bets, and I don't recollect he made any bets of that kind.

Q. Was he betting on Charcoal Point?—A. Yes.

Q. What did he say?—A. He would bet Charcoal Point would go for Sulzer.

Q. Did he make any bets?—A. He did; \$25.

Q. With whom?—A. J. R. Heckman. Mahoney bet that Charcoal Point would go for Sulzer, and Heckman took the bet. Heckman come to me before he took the bet. Mahoney had made this proposition and Heckman turned to

me and said, "Althouse, how will Charcoal Point go?" "Well," I said, "if it don't give Wickersham a great majority, then I will never make another prediction on election," and he turns right around and makes the bet.

Q. These ballots cast by Indians were placed in the ballot box and were counted?—A. Yes.

Q. Do you know whether Austin was a Democrat?—A. Yes.

Q. And Mr. Heath?—A. Well, Mr. Heath at that time he was supporting the Democratic ticket.

Q. He was a very earnest supporter of Mr. Sulzer?—A. Yes, sir.

Q. Who was the other election officer?—A. A lady, Mrs. Nicket; she died since.

Q. Mrs. Rickard?—A. Rickard; that is it.

Q. Was she very active around the polls that day?—A. No, sir; she was not.

Q. She attended to her business?—A. She did.

Q. Do you know Bert Heath?—A. I don't know one Heath boy by name from another. I know them when I see them, but I don't know them by their names. I think now I know Frank.

Q. Do you know whether he is a Republican or Democrat, and whether Mr. Heath was a supporter of Sulzer?—A. I know it two years before and last year, and Mr. Heath told me why.

Q. Why did he tell you?—A. He told me he was down on Wickersham; it was a personal case.

Q. Do you know John Durkin?—A. Yes, sir.

Q. Ever had any talk with John Durkin about Mr. Mahoney and his activities as a politician?—A. Yes; Mr. Durkin told me——

Attorney COSGROVE. This is hearsay, Judge; we object to it.

By Judge WICKERSHAM:

Q. You have had such conversation with him?—A. Yes.

Q. Do you remember what he did?—A. Durkin made some charges against Mahoney to Judge Jennings; I do.

Q. Did he talk to you about that?—A. He did.

Q. And what did he say? He talked to you about it pretty fully?—A. Well, he told me he had put in a big lot of evidence; it took two hours, I think, to do it; he was telling it and was going to get signers——

Attorney COSGROVE. Seems it is objectionable——

By Judge WICKERSHAM:

Q. I am asking what he said; I am not asking you about signers.—A. He said he was making a case before—against Mahoney.

Q. Did you write any letter to Judge Jennings yourself?—A. I did.

Q. About what date?—A. Few days after that time, after Mr. Durkin and I was talking.

Q. Durkin's letter has been introduced and it is dated December 31, 1918; your letter was after that?—A. Yes, sir.

Q. About what time later?—A. I don't know; a short time after Mr. Durkin told me this.

Q. Now, you have given me a copy of that letter and I will read it to you:

KETCHIKAN, ALASKA, *January 15, 1919.*

Judge ROBERT W. JENNINGS,

*Ketchikan, Alaska.*

MY DEAR SIR: Should you desire further evidence than what you already have in regard to Mahoney's offensive and pernicious activities on November 5, 1918, I can testify, as I was official challenger at Charcoal Point precinct.

Respectfully,

TAYLOR ALTHOUSE.

Q. Is that your letter to Judge Jennings?—A. Yes; and I mailed it.

Q. Did you ever get an answer?—A. No.

Q. Do you know if it is a fact Judge Jennings appointed Mahoney to his present positions or not?—A. Yes.

Q. Is it true that Judge Jennings himself is a very partisan Democratic official?—A. I don't know that.

Q. He doesn't reside here?—A. No.

By Attorney COSGROVE:

Q. Mr. Althouse, in this long general conversation you had with Mr. Heath, in which he said he was down on Wickersham personally, did he say anything



about his being very greatly disappointed with the Democratic organization on account of the fact that it had not treated him right?—A. The Democratic organization?

Q. Yes.—A. No.

Q. Nothing said about his promised nomination for a member of the legislature?—A. He didn't but somebody else did. I have heard it around.

Q. Did you not gather from Mr. Heath, or did he say anything about his being unfriendly to the Democratic Party?—A. He was friendly to Mr. Sulzer and I was not, as a politician.

Q. Isn't it a fact his whole family were unfriendly to the candidacy of Mr. Sulzer?—A. No.

Q. You don't know anything about it?—A. I do know that they were friendly to Mr. Sulzer.

Q. You know they all voted for Mr. Sulzer, don't you?—A. I presume they did, from their attitude before election.

Q. Do you know Mr. Lloyd and his wife, Mr. Heath's son-in-law and his wife?—A. I don't know how they voted.

Q. Do you know how Bert Heath voted?—A. From his talk I judge he voted Sulzer—well, I don't know one of the boys from the others; is Bert the one who come back—has been in Canada?

Judge WICKERSHAM. Yes.

Mr. ALTHOUSE. I don't, as I had no conversation with him.

By Attorney COSGROVE:

Q. How did Frank vote?—A. I don't know whether he voted or not.

Q. Do you know how Mike voted?—A. I don't know anything about them; I knew they belonged here and I didn't challenge them.

Q. There was a great deal of political activity in that precinct, you say, on election day?—A. Yes.

Q. And it was all by Judge Mahoney?—A. By golly, he was the biggest operator.

Q. There were a lot of Wickersham workers, too?—A. Not around the polls, except outside; there was Harrison.

Q. Did you see any Wickersham workers bringing any voters to the polls?—A. Not inside. If they brought any they dropped them at the door.

Q. You didn't notice?—A. If they brought any they didn't come in with them. They might have brought a hundred there; but I didn't see anybody inside.

Q. Did you notice whether the Wickersham supporters used automobiles in bringing voters to the polls?—A. I didn't see any.

Q. Did you see any other automobile there except Judge Mahoney's?—A. You know autos go by there all day, down and up the road; I couldn't say they brought voters. The only one I saw bringing voters there was Mahoney.

Q. Well, how many did he bring?—A. Well, how many, now, I couldn't be definite as to the real number.

Q. Do you know whether he brought three or four?—A. More.

Q. Four or five?—A. Four at one time, I tell you.

Q. Do you know you saw him drive up to the polls in his auto; where were you at the time?—A. Yes. I was standing inside, in the polls. The front of the store was all glass, and I saw an auto drive up and Mr. Sulzer come in with Mr. Mahoney, as I stated before.

Q. That was the only time you saw an automobile come up to the polls with persons in it?—A. No, sir; the time he brought this man—milkman.

Q. Schaffer; I mean Stensland?—A. I know this milkman lived on the island and I couldn't place him; come pretty near challenging him, and I didn't; and finally I asked Austin, "Who is that fellow?" and I says, "I am going to challenge him;" and he says, "He is the milkman." Then I knew him.

Q. Now, with reference to this man Nix; you say he told the board that he lived on Prince of Wales Island?—A. I couldn't be positive which precinct he said he lived in; whatever he said, it was on Prince of Wales.

Q. Is that what he told you?—A. He mentioned the precinct, whatever precinct it was, that was on the west coast of Prince of Wales Island.

Q. And that was after your board had adopted the rule setting aside the Territorial law requiring only 30 days' residence in the division, which allows a man to vote if he has been a year in the Territory and 30 days in the division?—A. They was making them take that oath.

Q. Your board had considered that rule after Mr. Oliver came down to see you?—A. Yes, sir.

Q. Then you decided, the board did, that a man must show he was a resident of the precinct in which he voted or offered to vote 30 days ahead of election day?—A. Yes.

Q. And this man came in afterwards?—A. Yes; in the afternoon.

Q. And he told you he lived on Prince of Wales somewhere?—A. Yes.

Q. And then you allowed him to vote after that by the making of a statement you knew was not true and which he said was not true?—A. I challenged him; what more could I do.

Judge WICKERSHAM. The action of the board is not his fault.

Attorney COSGROVE. He was a member of the board.

Judge WICKERSHAM. He wasn't a member of the board, and I object to it.

By Attorney COSGROVE:

Q. Who were the members of your board?—A. Mr. Heath and Austin and the lady.

Q. And you were watcher?—A. I was watcher.

Q. Now, that Charcoal Point voting precinct takes in all the territory immediately around the city of Ketchikan, does it?—A. I understand it takes in Gravina Island and out to Point Higgins.

Q. So if a man lived down beyond the oil dock?—A. I don't know.

Q. Suppose a man lived down near Saxman; if he wanted to vote on that day he would have to come to Charcoal Point precinct?—A. I suppose; although I have no idea.

Judge WICKERSHAM. There was a Beaver Falls precinct.

By Attorney COSGROVE:

Q. And the only way to get to your precinct was over this road?—A. That is all I know of, the only road I know.

Q. This man Jack Cochran, you have known him a number of years?—A. Yes.

Q. Old-timer in Alaska?—A. Yes; that is the reason I didn't challenge him.

Q. Old-time resident of Ketchikan?—A. Yes.

Q. And so far as you recollect he was a resident and had always been in Ketchikan?—A. I met him once in a while here, but I hadn't met him for so long that I mistook him for another man.

Q. And you said you have met him during the last several years here?—A. Yes; I don't know whether I met him other places or not.

Q. By the way, you were a member of the last grand jury?—A. No, sir.

Q. Were you a member of the grand jury that fall of the election in 1918?—A. No.

Q. Were you a member of the grand jury in January, 1919?—A. I was a member of the grand jury a year ago last spring.

By Judge WICKERSHAM:

Q. The spring of 1918?—A. I was a member of the grand jury then.

By Attorney COSGROVE:

Q. But you were not in town during the session of the grand jury following the last election; that is, January, 1919, you were in town?—A. Yes.

Q. Did you make any effort to carry these violations of law before the grand jury?—A. I went around town to see about doing it and nobody wanted to back me up, and I said I would be officious and get myself laughed at and stand alone. I have seen such things done before now.

Q. The bet you spoke of which Mr. Mahoney made with J. R. Heckman, is that Senator Heckman, member of the Territorial senate, you speak of?—A. Yes.

Q. And he was senator at that time?—A. Yes, sir.

Q. Did you make any bets on the Charcoal Point district?—A. I didn't; Mr. Mahoney offered to bet with me.

Q. Were there any other workers in the Charcoal Point voting precinct, besides yourself, in behalf of Wickersham?—A. There was a man that talking outside there; yes.

Q. From whom did you take your instructions as watcher?—A. Instructions? I didn't take any instructions.

Q. Or suggestions?—A. Why, the only one I recall making a suggestion that day was after this young Heath had voted in the afternoon, along the last of the day, and I stepped to the door for fresh air and while there, and this young fellow Heath had been sitting there for a long time in the room, and

I turned—I was just in the doorway—and so I come back into the room and he was just taking his seat. I was satisfied he had voted, this young Heath. Then Harrison makes the statement he was the man working for Wickersham, and he come to me and he said, What did you let that Heath vote for?

By Judge WICKERSHAM:

Q. Which one of the Heath boys was that?—A. They call him Dug.

Q. Was it Bert; was it the one who had been in British Columbia?—A. Yes; he said he had been eight years in Canada and taken out papers, and I said I didn't know this, why didn't you tell me; I knew he was a Heath.

By Attorney COSGROVE:

Q. But Mr. Oliver had been down there?—A. In the morning.

Q. Wasn't it a fact you did look to Mr. Oliver for any difficulties that might arise on the Wickersham end, for instructions and advice?—A. He came in, I told you what transpired between him and I, and he wanted to know what oath I was using, and I said I hadn't made any challenges yet.

Q. But he gave you some instructions at that time?—A. He said this is the oath they are making us use up there, and shows it to us.

Q. And he told you to be governed by that fact?—A. I reads it and gave it to the judges to read, and I asked them what they are going to do. They had some words with Mr. Oliver, the judges. Mr. Austin treated Mr. Oliver's statement with contempt like, and stood him off.

Q. But Mr. Oliver at that time was a strong Wickersham supporter?—A. I don't know he was.

Q. That was his general reputation?—A. I know he supported Mr. Wickersham.

Q. Wasn't he one of the leaders?—A. I might have been a leader.

Q. I know it might detract from your standing in the community, but Mr. Oliver was a leader?—A. He was active.

Q. He was very active?—A. He was up town and I was down there. I wasn't on hand to know what he was doing.

Q. And you don't know who Mr. Oliver was working for days and weeks before that?—A. I was never much acquainted with Mr. Oliver.

Q. You don't know the general reputation he had throughout the town as one of the most enthusiastic supporters and workers for Mr. Wickersham?—A. I couldn't say I knew anything of the case.

Q. You have no impression?—A. I suppose people could come and tell you I was very active.

Q. Were you?—A. Really I was not; before the election I might have taken an interest.

Q. Before election, just before they voted?—A. I mean days before. In fact, I was following up one in particular, refuting what he was telling the women folks, and that man wasn't a resident of the Territory here.

Q. You did keep busy most of the time working for Mr. Wickersham?—A. I was losing no time, but when I was up town I was talking politics.

Q. And you were uptown most of the time?—A. Evenings during the winter-time, and I generally met Mr. Cosgrove, too, around every time I was uptown.

Q. And during the wintertime, as a matter of fact, that is when the people are around you can talk to?—A. In the summer I am attending to business.

Q. Do you remember very clearly that Mr. Mahoney instructed this Indian, made him sign that paper?—A. He didn't say sign that oath; he said sign that paper.

Q. And the Indian went up and swore to it?—A. He went around there and signed that oath; Austin shoved it out to him.

Q. Did Mr. Austin make the Indian hold up his hand?—A. In answering those questions he had his hand up, when he asked him how long he had lived in the Territory.

Q. Had the Indian said at that time he lived on Prince of Wales Island?—A. Yes; he said he lived on the west coast of Prince of Wales Island.

Q. And had come in the night before?—A. Night before last, on a launch.

By Judge WICKERSHAM:

Q. Now, you said in answer to Mr. Cosgrove's inquiry that this Heath—Bert Heath—who had been down in British Columbia, was sitting around the polling place there; for how long had he been there?—A. Some time; two or three hours, anyway.

Q. And when you went over by the door and was looking out, he voted?—A. Yes, sir. I was outside; you see, I had closed the door and was standing on the threshold of the door and looking——

Q. And then your attention was called to the fact he had voted?—A. I goes in there and afterwards—and when turning to come in I saw him going away and I concluded he had voted.

Q. As a matter of fact he did vote?—A. He did vote.

By Attorney COSGROVE:

Q. The voting place down there was in Mr. Heath's store?—A. Yes, sir; the building he had; he had no store open at that time.

TAYLOR ALTHOUSE.

Subscribed and sworn to before me this 15th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

DEPOSITION OF ARTHUR A. WAKEFIELD.

The hearing having been previously adjourned until 2 p. m. and parties interested being present at said hour Mr. WAKEFIELD is called and sworn:

Attorney COSGROVE. At this time we want to make objection to the taking of testimony of this witness, as we have all other witnesses on the ground that no notice was served. If notice was served at Juneau, no boat has come from Juneau and there has been no time for preparation, counsel appearing at this time only being advised to-day, with the exception of one witness, who were going to be here and whose depositions were going to be required.

By Judge WICKERSHAM:

Q. State your name, will you?—A. Arthur A. Wakefield.

Q. How old are you?—A. Fifty-three years of age.

Q. Are you a married man?—A. Yes, sir.

Q. Where do you reside?—A. Ketchikan.

Q. How long have you resided here?—A. Seventeen years—over 17 years.

Q. With your family here in Ketchikan?—A. Yes.

Q. What is your business?—A. Mining engineering.

Q. Were you in the city of Ketchikan on November 5, 1918, at the time of the general election?—A. I was.

Q. Did you see Dudley Allen and his wife on that date?—A. I did.

Q. Where did you see them?—A. Coming from home I stopped in at the post office on my way over, and as I was coming out of the post office I saw Mr. Allen and his wife and Marshal Sharpe, and they were coming up this way, and we met right at the steps, and I lifted my hat and stopped and let them go ahead of me, and they came in here and voted ahead of me.

Q. Did Allen and his wife both vote?—A. They did; yes; that is, they put their names down and took slips.

Q. So far as you know they voted?—A. Yes.

Q. Do you know where they came from when they came up here to vote that morning?—A. Except hearsay, so Joe, Dynamite Joe in the Stedman, said. I went right from here over there and asked him if they were stopping there, and he said no, they came off the *Jefferson*.

Q. Was the *Jefferson* a boat that they were on?—A. Yes.

Q. How long had the *Jefferson* been in port?—A. It hadn't been here long.

Q. Then as a matter of fact they did get off the *Jefferson* and come up here and vote?—A. And Joe told me they were going right through.

Q. Did they go back on the boat?—A. I had work to do; I didn't pay any attention; I just went over to find out what right they had to vote.

Q. Have you looked up the register in the hotel lately?—A. Yes.

Q. When?—A. About 20 minutes ago in the Stedman.

Q. Were they registered in the Stedman?—A. They were not.

Q. Did they reside in the Ketchikan precinct?—A. They do not; not to my knowledge.

Q. Did they reside here at that time?—A. No; I don't believe they did. I think they called their home in Juneau.

Q. What is Allen's business?—A. Traveling man; all I know.

Q. Commercial drummer?—A. I met him a good many times; I know him to speak to.

Q. You are pretty well acquainted here in this precinct; you reside here?—

A. I know they don't reside here, except in the hotel.

Q. Do you know Gus Gillis and his wife?—A. I might know him if he is the one I mean. I didn't see them that day; Allen and his wife and Sharpe are the only three I saw; they come up here when I come up.

Q. They came up with Sharpe, the United States marshal?—A. Yes.

Q. Do you know James Sales?—A. I do.

Q. What is his name?—A. James E. Sales.

Q. And his wife?—A. Yes.

Q. Are you acquainted with both of them?—A. Yes.

Q. How long have they resided in Ketchikan?—A. They came here the next year after I did—that is, his wife did; she has been here ever since she was a little girl; she couldn't have been more than 7 or 8 years old; she has been here 16 years, I think.

Q. Have they a home here?—A. They have.

Q. Did they have on the 5th of November last?—A. Yes.

Q. How long previous to that did they have a home here?—A. Their home has always been here to my knowledge ever since they were married.

Q. They had resided in the Territory more than one year?—A. They were here last summer; their house is always open; they go down to the cannery, back and forth each year, of course; but they call their home here and get their mail here.

Q. What do they have here in the way of a home?—A. They have the house they are living in right across the street from Mr. Cosgrove.

Q. Do they have furniture in the house?—A. Yes.

Q. Is Mrs. Sales there now?—A. Yes.

Q. Have they any children?—A. Yes; three of them.

Q. And that has been their home for several years?—A. Ever since I know; never had any other.

By Attorney COSGROVE:

Q. Did you notice especially whether the register showed Dudley Allen and his wife to have been here within two or three weeks of the election day you speak of?—A. I have seen them quite often in Ketchikan; coming down this morning, the reason I wanted to know was that we had had an argument the night before, over to the hotel; some said that people who lived way up in Juneau or in Sulzer could vote here, and some said there was a new law requiring a person to be 30 days in the precinct; and the next night after election we heard that Sulzer's vote had been challenged; and I made the remark right in front of the crowd that they ought to have challenged to others; if he couldn't vote, these people hadn't a right to vote.

Q. And I understand you to say you looked at the Stedman Hotel register a few minutes ago?—A. Yes.

Q. For what date did you look at the register of the hotel—the 5th of November, 1918?—A. Yes. I was satisfied that he wasn't there on that day.

Q. Did you look back, then?—A. No; because Joe told me they got off the boat that morning. He couldn't have been here the night before or several days before.

Q. You know it has been Mr. Allen's habit to put in days and even weeks at a time in Ketchikan during the past year?—A. Yes; a few days.

Q. You don't know how long?—A. No.

Q. You don't know whether he calls Ketchikan or Juneau his home?—A. I couldn't swear to that; I know when he is in here he registers at the Stedman; I think Juneau he calls his home; he lives in Juneau; that is his home.

Q. So far as you know personally, you have no knowledge of the facts; you don't know where his residence is?—A. I know it isn't here; never has been.

Q. He might still have a home here?—A. He never lived here, outside of stopping at the hotel.

Q. So far as you know?—A. No.

Q. With reference to Mr. Sales, do you remember that Mr. Sales went south last fall?—A. Yes.

Judge WICKERSHAM. I object, as it was after election; it cuts no ice that he went south last fall.



By Attorney COSGROVE:

Q. Speaking before the election, you say he has a home here now?—A. Yes.

Q. And has had a home here for several years?—A. Yes.

Q. Isn't it a fact that when he went south last fall he gave up his home here?

Judge WICKERSHAM. I object to that.

Mr. WAKEFIELD. No.

By Attorney COSGROVE:

Q. Isn't it also a fact it was not his intention to return?—A. He intended to return here in the spring, to my knowledge, until he got the new job; he never said he wasn't going to live here.

Q. As a matter of fact, he moved away from here up to the new job?—A. He moved up there for a few weeks this year.

Q. That in accordance with his intention of the previous fall?—A. He might have had an idea to leave, but he never left yet, to my knowledge, for good.

Q. Isn't it a fact the reason why he didn't move his family to Port Walter was that he got into a squabble with the company, and, therefore, dropped his job?—A. That was this year, not last year.

Q. But it was last year he made the contract to go to Port Walter?—A. No; I don't believe it was.

Q. Do you know anything about it?—A. I am quite sure it was this spring, about January or February sometime.

Q. Isn't it also a fact that his property was for sale?—A. Yes; it was for sale awhile this year.

Q. Wasn't it for sale when he went south last fall?—A. I can't swear to it.

Q. You don't know anything about that?—A.——

Q. And isn't it a fact that his family is about to join him now?

Judge WICKERSHAM. I object to that.

By Attorney COSGROVE:

Q. By the way, where is he employed?—A. Beauclere.

Q. His property is for sale now, is it not?—A. I think not.

Judge WICKERSHAM. I object.

Mr. WAKEFIELD. Just in answer to your other question, his wife told me a few days ago that they were not going to sell their home.

By Attorney COSGROVE:

Q. Have you been up to that property recently?—A. No.

Q. To see whether the sign is still on the front stoop?—A. She told me she wasn't going to leave.

Q. Have you seen the sign?—A. That might be up there, but they have had no intention of selling in the last few weeks.

Q. Isn't it a fact preparations are being made by Mr. Sales to move his family to Beauclere?—A. No; not this year; they are going to stay here. They have furniture down in our house that is stored there, and they want it back up again.

Q. You were mayor at the time of election, November 5?—A. Yes, sir.

Q. And you appointed all the officers, judges, and clerks of election?—A. Me; I did not.

Q. In conjunction with the city council?—A. I hadn't anything to do with it.

Q. And, of course, you were a strong Wickersham supporter, too?—A. I have voted for him; yes.

Q. And you were a strong supporter on election day?—A. No; I was not. I voted up here and just walked away and went to work, worked all day.

Q. Don't you remember asking anybody to vote for Mr. Wickersham that day?—A. No.

Q. And that was because you were working?—A. No.

ARTHUR A. WAKEFIELD.

Subscribed and sworn to before me this 15th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

## DEPOSITION OF ISAAC M. THOMAS.

KETCHIKAN, ALASKA, August 16, 1919—1 p. m.

I. M. THOMAS, called and sworn :

By Judge WICKERSHAM :

Q. Mr. Thomas what is your name?—A. Isaac M. Thomas; I generally sign it. I. M. Thomas.

Q. How old are you?—A. Fifty-nine years old.

Q. Are you a married man?—A. Yes, sir.

Q. Where do you reside?—A. In Ketchikan; my wife has been dead for 10 years; of course, I was a married man.

Q. How long have you resided in Ketchikan?—A. It will be six years this coming November.

Q. Have you a daughter?—A. Yes.

Q. What is her name?—A. I have three of them. I think the one you speak of is Nellie Luella Thomas.

Q. Nellie L. Thomas?—A. Yes.

Q. There is some question, Mr. Thomas, about her age; do you know whether she voted last election, November 5, 1918?—A. Only just heard her say; I wasn't here.

Q. Did she vote?—A. Yes; I was outside the city limits.

Q. How old was she November 5, 1918?—A. A little past 21.

Q. What was her birthday?—A. 29th of October.

Q. On the 29th day of October, 1918, how old was she?—A. She was 21 past.

Q. That was her birthday?—A. Yes.

Q. Then November 5, 1918, she was more than 21 years of age?—A. Yes, sir.

Q. And where did she reside?—A. She was working for Harvey Stackpole, here in town.

Q. How long had she been in the Territory of Alaska?—A. About four years.

Q. And in Ketchikan?—A. About four years.

By Attorney COSGROVES :

Q. You say that you lived at that time outside the city limits, Mr. Thomas?—A. Just outside the city limits.

Q. And your family resided with you?—A. Some of the children were there with me.

Q. Your wife?—A. My wife has been dead 10 years.

Q. Some of your children keep house for you?—A. Youngest daughter and part of the time my daughter-in-law.

Q. You maintain a house there?—A. Yes, sir.

Q. For your family?—A. Yes, sir.

Q. And is it close to the Charcoal Point voting booth?—A. Why, you know where Prof. Jones lives, I live right the next house to him.

Q. How far from the Charcoal Point voting booth?—A. I judge about five blocks.

Q. Beyond?—A. This side.

Q. Toward Ketchikan?—A. Yes.

Q. Not within the corporate limits of the town?—A. No, sir.

Q. Your daughter Nellie was living at home at the time?—A. That is, home when she came home, but she worked for Harvey Stackpole.

Q. By the day I presume?—A. By the month.

Q. And stayed with him temporarily?—A. Yes.

Q. But her home was with you, of course?—A. When she wanted to come home it was there, but she only came there one day a month and sometimes not that; just came for a few hours. It was her home whenever she wanted to make it her home, and really her residence was with Harvey Stackpole.

Q. She went around and obtained employment in different places and when she was out of employment she would go home?—A. She wasn't out very much, she was with Harvey Stackpole several years, better than two years.

Q. But you always considered your home her residence?—A. Yes; when she wanted to come.

Q. You say she became 21 the 29th of October, 1918?—A. 1897 she was born, the 29th of October, and that would make her 21 in 1918.

Q. Do you know whether or not she has been going to school?—A. In the Ketchikan public school.

Q. During 1918 and 1917?—A. She went in 1915 and 1916, I don't think she did in 1917 and 1918, only night school, I am not sure.

Q. Who, if anybody introduced her to the school, to the school authorities?—

A. I really don't know as anyone did, she went to school with the rest of the children, until she went to work for Mr. Stackpole.

Q. Do you know what the records of the school show affecting her age?—A. I think they would show.

Q. Do you know what they show?—A. I do not.

Q. I presume Nellie knows her own age?—A. Yes, sir.

Q. Ever heard her speak of it?—A. Yes, sir.

Q. Recently?—A. I don't know as I have for a year or so. Of course, whenever her birthday comes around we always have a birthday dinner for her and her friends.

Q. Have you and your daughter Nellie talked over the matter of her age very recently?—A. No.

Q. How long ago?—A. Probably two years ago. I think it was two years ago the last time we had a birthday dinner for her.

Q. How did you happen to be a witness here to-day?—A. I was asked by Mr. Wickersham.

Q. Personally?—A. Yes, sir.

Q. Did he ask you personally?—A. He did.

Q. Where were you?—A. Over to the Revilla.

Q. Had anybody else talked to you but Wickersham?—A. Mr. Stackpole. Mr. Stackpole came over there and then I met Mr. Wickersham in the Revilla. and he asked me to come up here.

Q. When Mr. Stackpole saw you—A. Wednesday.

Q. Did he tell you what you were expected to give testimony about?—A. Yes, sir.

Q. And you and he discussed the testimony?—A. Not to speak of, only he wanted to know the girl's age and wanted to know if I could tell and I said I wouldn't say I thought it was the 29th of October but I wouldn't be positive until I look at the records and I went home and looked at the records.

Q. What is the record?—A. The 29th of October.

Q. What is the record?—A. Family record.

Q. In what form?—A. In the Bible.

Q. In whose handwriting?—A. Some in mine and some in my wife's.

Q. Her age?—A. My handwriting.

Q. Then that is probably correct?—A. I think it is.

Q. Unless you made a mistake?—A. I don't think I did, I think it is correct.

By Judge WICKERSHAM:

Q. What business are you in?—A. Well; at the present time I am working for Mr. Bergman.

Q. In what business?—A. Working in the fish house.

Q. Here on the wharf in Ketchikan?—A. Yes, sir.

Q. How long have you followed that class of business?—A. The last two years when he was working there. At other times I have been doing whatever I could, we have a boat, hauling and cutting piles, fishing, whatever happens to be.

I. M. THOMAS.

Subscribed and sworn to before me this 16th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

DEPOSITION OF JOSEPH ULMER.

Judge WICKERSHAM. I want to call Mr. Ulmer.

Attorney COSGROVE. We make objection, not having been notified of his being here to testify, and we have had no opportunity for preparation of cross-examination.

Judge WICKERSHAM. It is about a matter which has already been before you, and I imagine we will have no difficulty about it.

Attorney COSGROVE. I just want the record to show the objection; that is all. (Witness sworn.)

By Judge WICKERSHAM:

Q. State your name, Mr. Ulmer.—A. Joseph Ulmer.

Q. How old are you?—A. Forty-three.

Q. How long have you resided in Alaska?—A. Well, I have resided in Ketchikan steadily three years.

Q. And in Alaska?—A. Off and on for the last 22 years.

Q. What is your business?—A. I follow mining and engineering.

Q. Where were you on November 5, 1918, on the day of the general election for Delegate to Congress in Alaska?—A. In Ketchikan.

Q. Do you know Dudley Allen and his wife?—A. I do.

Q. Did you see them on that day?—A. Yes, sir.

Q. What did you see them doing; just tell your story, what you saw them doing?—A. I saw them this morning—the steamship *Jefferson* came in and they came up here about 7 o'clock in the morning in company with Mr. Sharpe.

Q. Who is Mr. Sharpe?—A. United States deputy marshal; and they voted here, Mr. Allen and his wife.

Q. They voted in Ketchikan?—A. Ketchikan.

Q. In this room we are now sitting in?—A. In this room.

Q. What did they do?—A. They went out and went down to the boat again.

Q. On board the *Jefferson*?—A. Yes, sir.

Q. When did the *Jefferson* arrive that morning?—A. About half past 6 or 7.

Q. How long did the *Jefferson* remain at the wharf in Ketchikan?—A. Probably half an hour or three-quarters.

Q. Did they come in on the *Jefferson* that morning?—A. They did.

Q. And went out on the *Jefferson* that morning?—A. Yes.

Q. And in the meantime they came up here and voted?—A. In this room.

Q. Who met them and came up with them?—A. I saw Mr. Sharpe meet them at the boat and come up with them.

Q. How long have you known them?—A. Who do you mean, Allen?

Q. Yes.—A. Oh, I have seen him now and then stop off in Ketchikan on his business trips.

Q. What is his business?—A. I think he is traveling for a wholesale house in Seattle.

Q. Commercial drummer?—A. Yes.

Q. Does he reside in Ketchikan?—A. He stays in Ketchikan when he comes here on business.

Q. Did he have any home in Ketchikan at that time?—A. Not to my knowledge.

Q. You are pretty well acquainted in Ketchikan?—A. I am.

Q. Has he resided in Ketchikan since that time?—A. Only when he comes in here on business.

Q. How long does he remain here when he comes here on business?—A. Probably a week or two weeks.

Q. Where does he remain at that time?—A. I think he stays in the Stedman.

Q. Stedman Hotel?—A. Yes.

Q. And what is he doing here during the time he remains, for that period?—A. I guess he takes orders for his goods; articles that he sells.

Q. In other words he is a commercial drummer who comes in for a few days and goes out again?—A. I think so.

Q. And that constitutes his residence in Ketchikan, so far as he has any?—A. To my knowledge.

Q. What about his wife, do you know whether she was a resident of Ketchikan?—A. I don't think she was.

Q. Did they have any home here?—A. Not just then; not to my knowledge. I understood they just got married and he was coming down from Juneau at that time on his honeymoon and going to Seattle.

Q. Have they had a home here since then?—A. Not to my knowledge.

Q. You say Allen was simply spending his time in town while doing business

By Attorney COSGROVE:

for the concern he represents?—A. So far as I know.

Q. And so far as you know that is all he does in Juneau, too?—A. I presume he does.

Q. Or Skagway?—A. Yes.

Q. Or any other place?—A. Yes.

Q. You don't know whether he does or doesn't consider Ketchikan his home?—  
A. No; I don't know that.

Q. Joe, how did you happen to be up so early that election morning?—A. Naturally, being a national holiday in Alaska, I took time to come down here.

Q. Got up earlier than usual?—A. And I happened to come down, and the *Jefferson* just happened to be coming in and I went down to see who was coming off. It was kind of a rainy day, and what called my attention more was because I happened to see them get off the boat and immediately proceed to the polling place here and before the election judges had organized or read the law, they voted, before the watchers could challenge any votes, because the challengers were not accepted, they hadn't presented their credentials, so they voted before the judges were organized.

Q. Isn't it a fact that you were one of Mr. Wickersham's supporters, whose duty, on that day, was to see that no illegal votes arrived from the outside that might be cast against Mr. Wickersham?—A. I didn't know anything about the illegal votes; my object was to get all the qualified voters that had votes to come up and vote for Mr. Wickersham.

Q. And you had been in consultation with Bob Oliver for a few days preparing for election?—A. Not necessarily.

Q. Not necessarily; isn't that a fact?—A. Yes, and—

Q. And—

Judge WICKERSHAM. Wait a moment; let him talk.

Mr. ULMER. I want him to go ahead and ask the questions. I said yes, but when it comes to politics, so far as I am concerned, I don't need much consultation, to use plain English, with a half-baked politician.

Q. I understand that; but you had been framing up, so to speak, the procedure for the protection of Wickersham interests on election day?—A. I did, yes; for the support of Mr. Wickersham.

Q. And you and other leaders used to meet in the Alaska Labor Union Hall; did you not?—A. No.

Q. Where did you meet?—A. Met most any place, but we never met in the Alaska Labor Hall at that time because they didn't have any.

Q. Did you anticipate the arrival of Mr. Allen and his wife that morning?—  
A. No.

Q. But when you heard the boat whistle you went to the wharf?—A. Yes; I met it.

Q. You saw Mr. Allen and his wife come off the boat?—A. Yes.

Q. And saw Mr. Sharpe meet them?—A. Yes.

Q. And immediately concluded there was something that required your immediate attention?—A. No; not necessarily, because I thought it was up to the judges to say.

Q. You followed them up to the polls, did you?—A. Because I come up to vote myself.

Q. Did you see anybody else come off the boat?—No.

Q. Did you see the boat land that morning?—A. Yes; she just made fast.

Q. Did you see them put out the gangplank?—A. Yes.

Q. Do you know whether Mr. Allen had any grips with him?—A. No; his raincoat was over his arm.

Q. And after that you saw him go right back to the boat?—A. They went out and then went back to the boat again.

Q. Did you stay there until the boat went out?—A. I heard it when she whistled.

Q. You don't know whether Mr. Allen went through on that boat?—A. He wasn't to be seen that same day, and it was his honeymoon trip, and they had everything aboard.

Q. Then most of your conclusions were arrived at through things you didn't see rather than through what you did see?—A. He wasn't to be seen that day.

Q. But isn't it quite possible a man on his honeymoon might be in town and yet not be seen that day?—A. No; if he was around town that day he would have been around, because all his friends were around that day.

Q. You are sure he was not in town that day because you didn't see him?—  
A. I was in town all day and I didn't see him on that day.

Q. Well, there are lots of people who are in town you don't see?—A. Yes; that I don't see.

Q. You have been an ardent Wickersham devotee for several years?—A. Somewhat an admirer of Mr. Wickersham; yes.

Q. And are now?—A. Yes.



Q. And just worked your head off electioneering for him in this precinct?—

A. I always do.

Q. And expect to this year?—A. Provided he has the right issues.

By Attorney ZEIGLER:

Q. You mentioned Mr. Allen and his wife being on their honeymoon?—A. I understood.

Q. You didn't know as a matter of fact that they had been married over 18 months prior to that time?—A. I didn't know.

Q. You would not say they hadn't been married at least over a year before last election?—A. I didn't know anything about it, only the write-up in the paper the same day; of course they write up lots about Dudley Allen.

Q. I was living in Juneau——

Judge WICKERSHAM. I object.

Attorney ZEIGLER. I just want——

Judge WICKERSHAM. I know what you want to do and I object.

JOSEPH ULMER.

Subscribed and sworn to before me this 16th day of August, 1919, at Ketchikan, Alaska.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

CERTIFICATE.

TERRITORY OF ALASKA, *Town of Ketchikan, ss:*

I, Will H. Winston, a notary public in and for the Territory of Alaska, do hereby certify that on the 11th day of August, 1919, pursuant to notice, hereto attached, depositions of Forest J. Hunt, John J. Durkin, and Harvey M. Stackpole, and on the 15th day of August, 1919, deposition of Taylor Althouse were taken before me at my office in the municipal magistrate's office, in the town of Ketchikan; also that on the said 11th day of August, 1919, depositions were taken from Aaron Shellhouse, Edward G. Morrissey, J. W. Jones, Samuel S. Kincaid, and Mrs. J. A. Kincaid; on the 15th of August, 1919, from E. A. Heath, Charles B. Oliver, John Guddart, C. D. Schell, and Arthur A. Wakefield; and on the 16th day of August, 1919, from I. M. Thomas and Joseph Uhlmer; and that the said witnesses were by me duly sworn to tell the truth, the whole truth, and nothing but the truth in said matter; that said depositions were taken by a stenographer in my presence, and the witnesses have, after having read their testimony in my presence, subscribed and sworn thereto before me as such notary public.

In witness whereof, I have hereunto set my hand and notarial seal this 16th day of August, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public for the Territory of Alaska.

My commission expires June 12, 1921.

*To the above-named contestee and his agents and attorneys, J. A. Hellenthal and John R. Winn, Esq.:*

Take notice that before G. C. Winn, a notary public for the Territory of Alaska, at said notary's office in the Valentine Building at said Juneau, Alaska, on Friday, the 22d day of August, 1919, beginning at the hour of 5 o'clock p. m. of that day and thence continuing until completed, the contestant, James Wickersham, will take the depositions of the following witnesses residing at Juneau, Alaska, to wit:

Dudley G. Allen, Mrs. Dudley G. Allen, and A. Van Mavern. Dated this 14th day of August, 1919.

JAMES WICKERSHAM, *Contestant*,  
By JOHN RUSTGARD and  
JOHN B. MARSHALL,

*His attorneys.*

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

JOHN B. MARSHALL, being first duly sworn, deposes and says: That on the 14th day of August, 1919, he served an exact copy of the foregoing notice upon John R. Winn, one of the attorneys and agents for the contestee, by delivering

the same to the said John R. Winn personally at his office in the town of Juneau, Alaska.

JOHN B. MARSHALL

Subscribed and sworn to before me this 21st day of August, 1919.

[SEAL.]

H. L. FAULKNER,  
Notary Public for Alaska.

My commission expires November 14, 1922.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John B. Marshall, and John Rustgard on behalf of contestant, and J. A. Hellenthal on behalf of contestee.

Notice having been duly given and process served on Dudley G. Allen and Mrs. Dudley G. Allen, his wife, for the taking of their deposition on behalf of contestant before the above-named officer on Friday, August 22, 1919, and said witnesses desiring to be absent from Juneau on said date, the respective parties have therefore stipulated that the testimony of said witnesses might be taken before the said officer on Saturday, August 16, 1919, at 5 o'clock p. m., pursuant to which stipulation the following proceedings were had, to wit:

DEPOSITION OF DUDLEY G. ALLEN.

DUDLEY G. ALLEN, being first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is Dudley G. Allen?—A. Yes, sir.

Q. What is your place of residence, Mr. Allen?—A. Juneau.

Q. What was your place of residence on November 5, 1918?—A. Juneau.

Q. On that date how long had you been in the town of Ketchikan, Alaska?—

A. I got there that morning.

Q. Did you or not, on November 5, 1918, vote at the general election held in the Territory?—A. Yes, sir.

Q. At the polling place in the town of Ketchikan?—A. Yes, sir.

Q. On that date for whom did you cast your ballot for Delegate to Congress?—A. I don't believe I will answer that, Judge; I don't have to answer that, do I?

Q. Well, my best opinion is that where a vote is illegal the person voting can be required to answer for whom he voted.—A. Well, is not it a question as to whether the vote is illegal or not? I would not vote illegally if I knew it was illegal. I understood there was a law authorizing a voter to vote anywhere in his division.

Q. The fact is this: That prior to the election the judges of election received from George B. Grisby, attorney general of the Territory at that time and now the contestee, instructions to the effect that the act passed by the legislature attempting to authorize a voter in Alaska to vote at any precinct in his division was in violation of what is known as the delegate act passed by the Congress of the United States and providing for the election of a Delegate from Alaska, according to which act a person must be a resident of the precinct in which he votes for 30 days immediately preceeding the election. In substance, it was instructions from the attorney general that a man could not vote unless he had been a resident of the precinct for 30 days, and that is the position we take in this matter, and that the vote is therefore illegal; and that being true, one so voting may be compelled to testify for whom he voted.—A. Of course, that particular visit to Ketchikan began on that day. I had been in Ketchikan many times before that, sometimes as long as two weeks at a time, and I can remember when I voted in Juneau on other elections where I had only been in Juneau possibly a week before election. That was particularly true before I was married; my home was here; or my mail came here. That was the only claim I could lay to it as home. I called it my headquarters. I was not here any more than at Ketchikan, or Sitka, or any other point that I made.

Q. This was what you called your home?—A. Yes, sir.

Q. This is your legal domicile, and you have ordinarily voted here. Well, I will ask you to answer the question. I think the question is a perfectly proper one.—A. Well, of course, it had not been made clear to my mind, Judge, that the validity of that legislative act has ever been proven or disproven. Has there ever been any proof or any judgment on that?

Q. There has never been any adjudication in court, but the contestee himself says that it is invalid.—A. Was that made public?

Q. That was published. It was published in the Empire and the notice was sent to the judges of election throughout the Territory, and the judges of election were furnished with the necessary affidavits for swearing in votes, and according to those affidavits they had to swear they had been residents of the precinct for 30 days.—A. They never offered any affidavit to me.

Q. That was simply because you voted early and the judges of election had not carefully inspected all their instructions and did not know what their duties were.

By Mr. HELLENTHAL:

Q. Did you know anything about any such instructions being given?—A. I never heard of it.

Q. You assumed that the law was valid and that you had a right to vote. You are not keeping this secret on account of the way you voted, but because you feel you have the right of secrecy of a voter?—A. I thought so. I am not ashamed of how I voted, but it strikes me that when a man votes in all good faith and has no intentions of breaking the law, it is unfair for anybody to stop me—for anybody to challenge me. I was allowed to vote. I gave my residence as Juneau. I thought that I could vote anywhere in the first division.

By Mr. MARSHALL:

Q. Well, I can only state to you that that is the opinion of the attorney general, which is undoubtedly correct, and that your vote is therefore illegal. This matter is to come before Congress, which is to determine this question. To make the statement for whom you voted, if the law is a valid law, can do no harm, for if the law is valid your vote will be counted, and if Congress holds that it is not a valid law it will throw your vote out.—A. You mean, do I understand, that Congress is going to pass on which of the laws is valid and strike out any votes that they claim to be illegal, no matter which law they decide would be legal or illegal after that?

Q. Congress will be called upon to say whether or not the legislative act is valid. That is, if it finds it necessary to decide that question. Congress may determine this question without deciding all the points raised, because they may throw out enough votes on other scores without settling that question, but the presumption is that in this case Congress will determine whether or not this legislative act is valid. I would also like to call your attention to section 116 of the act of Congress known as the act of February 19, 1851, and that section provides that: "Any person who, having been summoned in the manner above directed, refuses or neglects to attend and testify, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of \$20, to be recovered, with costs of suit, by the party at whose instance the subpoena was issued, and for his use, by an action of debt, to any court of the United States; and shall also be liable to an indictment for a misdemeanor, and punishment by fine and imprisonment."—A. That has to do with Delegate contests?

Q. It deals particularly with the question of the contest of the elections in Congress?

By Mr. HELLENTHAL:

Q. Mr. Allen, are you going to be gone very long?—A. Why, yes; I think I will be gone three or four weeks. The chances are—I am going to Skagway—it will be a few weeks, anyway.

Q. Will that still be time enough for you to take your testimony? I was going to suggest that if Mr. Allen is going to be back in time possibly the validity of this question might be submitted to the district court here.

By Mr. MARSHALL:

Q. The time for taking our testimony expires on September 6 and we do not want to be crowded at the end.—A. If I knew that the act was illegal, I would answer the question immediately; but if I thought that the provisions of the Territorial act were in force then I think I would stand on my right of secrecy in not saying whom I was voting for.

Q. I will call your attention to the fact, at the suggestion of Mr. Rustgard, that the contestee in his answer admits that that act is illegal, in accordance with the instructions that he gave to the judges of election at the last election and also in his answer to the petition of Judge Wickersham. So the question is really not in issue. Congress will hold it illegal under the circumstances.

Mr. HELLENTHAL. It might not be illegal. Mr. Grigsby's admission that the act was illegal could not bind Mr. Allen very well. It would have to come from some more authoritative source.

By Mr. MARSHALL:

Q. I will put the question again as to whom you voted for for Delegate to Congress on November 5?—A. Well, I will answer the question and save the time. I do not think it makes any difference. I voted for Sulzer.

Mr. MARSHALL. I believe that is all.

Cross-examination by Mr. HELLENTHAL:

Q. Mr. Allen, was your vote challenged?—A. No, sir.

Q. What time of day did you vote?—A. Eight o'clock.

Q. How did you come to vote at Ketchikan when your residence was in Juneau?—A. I waited in Alaska—we were going outside; we go out every winter—I waited in Alaska for a boat that would allow me to vote. In other words, I stayed here to be sure to be allowed to vote before I left for the winter. The boat I took was the *Jefferson*; she was scheduled to be in Ketchikan on the 5th. She got there on the 5th.

Q. The question I was asking especially was in reference to how you came to vote in Ketchikan?—A. Because I happened to be there on that day.

Q. Under what legal authority?—A. I assumed that the legislative act allowing a resident of the first division to vote anywhere in the first division was valid and allowed me to vote in Ketchikan, Wrangell, or Petersburg, or anywhere in the first division.

Q. Ketchikan is in the first division?—A. As I understand.

Q. In the same division as where you were a resident?—A. Yes, sir.

Q. That is how you came to vote in Ketchikan?—A. Yes, sir.

Q. Had that act not been in force you would have remained in Juneau?—A. I would have stayed here and voted in Juneau. That was my idea in not going to Seattle earlier than the 1st of November. In fact, we had thought about going down on the *Sophia* on the trip when she was foundered on Vanderbilt Reef, but, of course, we could not go then. Decided to wait over and vote.

Q. You delayed in Alaska for some time in order to vote?—A. Well, I did not, as a matter of fact, but if I had not got the *Jefferson*, to have been able to vote in the first division, I would have been here three or four weeks more. It was a case where if I had not gotten that boat I would have been here three or four weeks more.

Mr. HELLENTHAL. That is all.

DUDLEY G. ALLEN.

Subscribed and sworn to before me this 16th day of August, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

#### DEPOSITION OF MRS. DUDLEY G. ALLEN.

Mrs. DUDLEY G. ALLEN, being first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL.

Q. What is your given name?—A. Alma.

Q. You are the wife of Mr. Dudley G. Allen, who has just testified?—A. Yes, sir.

Q. Your residence is in Juneau?—A. Yes, sir.

Q. How long have you resided here?—A. About a year.

Q. On November 5, 1918, where were you?—A. In Ketchikan.

Q. Did you in Ketchikan on that day vote for any candidate for office of Delegate to Congress from Alaska?—A. Yes, sir.

Q. For whom did you vote?—A. I voted for Sulzer.

Mr. MARSHALL. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. Mrs. Allen, you had lived in Alaska for some years, had you not?—A. Yes, sir.

Q. In Skagway?—A. Yes, sir.

Q. Also in the first division?—A. Yes, sir.

Q. And you had moved to Juneau from Skagway?—A. Yes, sir.

Q. At the time you were married to Mr. Allen?—A. Yes, sir.

Q. You also voted, feeling that you had a right to vote under the act of Congress that permitted you to vote at Ketchikan?—A. Yes, sir.

Q. That is true?—A. Yes, sir.

Mrs. ALMA ALLEN.

Subscribed and sworn to before me this 16th day of August, 1919.

[SEAL.]

G. C. WINN,

*Notary Public for Alaska.*

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 16th day of August, 1919, the foregoing witnesses, Dudley G. Allen and Mrs. Alma Allen, having first been duly sworn to testify the truth, the whole truth and nothing but the truth, in their direct and cross examinations, did testify as set forth in the foregoing depositions; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction and that after the same was read by said witnesses, they swore to the same and signed their respective names thereto.

In witness whereof, I have hereunto set my hand and official seal this 16th day of August, 1919.

[SEAL.]

G. C. WINN,

*Notary Public for Alaska.*

My commission expires July 22, 1921.

*To the above-named contestee and his attorneys J. A. Hellenthal and John R. Winn:*

Take notice that before Grover C. Winn, a notary public, at said notary's office at Juneau, Alaska, on Friday the 22d day of August, 1919, at 5 o'clock p. m. of that day, the contestant James Wickersham will take the deposition of V. A. Paine, a resident of Juneau, Alaska, as witness for contestant.

Dated August 21, 1919.

JAMES WICKERSHAM, *Contestant.*

By JOHN RUSTGUARD,

*Attorney for contestant.*

Copy of the above notice received at Juneau, Alaska, this 21st day of August, 1919.

JNO. R. WINN.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on V. A. Paine, for the taking of his deposition on behalf of contestant before the above-named officer, on Friday, August 22, at 5 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF V. A. PAINE.

V. A. PAINE, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGUARD.

Q. Your name is?—A. V. A. Paine.

Q. And your residence is Juneau, Alaska?—A. Yes, sir.

Q. How long have you lived in this city?—A. Nearly six years.

Q. Are you acquainted with Joseph Snow?—A. I am.

Q. Generally known as Joe Snow?—A. I am.

Q. Where has he resided during the years you have known him?—A. Juneau.

Q. Where were you on the 5th day of November last?—A. At Kake.

Q. That is a voting precinct, or on that day was a voting precinct, in the first division of the Territory of Alaska?—A. It was.

Q. Did you see Joe Snow there on that date?—A. I did.



Q. Where and when on that date did you see him?—A. I saw him when I got up in the morning, aboard the *Catherine D.*

Q. The *Catherine D.* was—A. A steamship.

Q. Coming from where and going where?—A. Coming from the south, going through Juneau.

Q. Was Joe Snow a passenger on the *Catherine D.*?—A. He was.

Q. Were you a passenger?—A. I boarded the *Catherine D.* at Kake, for Juneau.

Q. Did you learn on that day whether or not Joe Snow voted at Kake?

Mr. HELLENTHAL (interrupting). I object to that.

Q. (Repeated).—A. He said he did.

Q. When did you speak to him on the subject?—A. Why, he announced when he arrived back from the store that he had been up and voted.

Q. What time in the day was that?—A. It was before lunch. The boat was there the entire day.

Q. Did he state who he voted for?—A. He did.

Q. Who did he say he voted for?—A. He said he voted for Mr. Sulzer.

Q. Where did Joe Snow come from at that time?—A. He said he was from Ketchikan, bound for Juneau.

Q. He was a through passenger from Ketchikan to Juneau at that time?—A. Well, he came from somewhere south of Kake, bound for Juneau. I do not know where he got on, but my impression was that he said he was from Ketchikan.

Mr. HELLENTHAL (interrupting). I shall move that these statements of Joe Snow be stricken out.

Q. Was your wife with you at this time.—A. She was.

Q. Did either you or she vote on that day?

Mr. HELLENTHAL (interrupting). Object to that as immaterial.

A. We did not.

Q. Why did you not?

Mr. HELLENTHAL. I object to that as immaterial.

A. We were at the cannery, which is a full mile from the store. We did not live in Kake, although we had been there for more than 30 days, but we did not consider that we had any vote there and we did not go up to the store that day. We waited for the steamer to leave. Waited aboard the boat.

Q. The reason that you and your wife did not vote on the 5th day of last November was due to the fact that you were not residents of the Kake precinct?—A. Yes, sir.

Mr. HELLENTHAL (interrupting). I object to that as immaterial.

Mr. WINN. I object to that as leading, too.

Q. You stated, as I understand it, that you had been at Kake more than 30 days?—Yes, sir.

Q. But that Juneau was your place of residence?—A. Yes, sir.

Q. And that was the reason you did not vote?—A. Yes, sir.

Mr. HELLENTHAL (interrupting). I object to that as immaterial.

Q. Do you remember what time the *Catherine D.* called at Kake on this trip?—A. Yes, sir.

Q. What time?—A. About 8 o'clock in the evening of the 4th, and she left there about 5 o'clock in the evening of the 5th.

Q. What was she doing there during that period?—A. Loading salmon.

Mr. RUSTGARD. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. Mr. Paine, how many times did you see Joe Snow during the year next preceding the election of last November?—A. I could not say.

Q. Did you see him at all?—A. I think so.

Q. Are you sure you saw Joe Snow during the entire year?—A. I think so.

Q. Where did you see him?—A. In Juneau.

Q. Where was he living?—A. I could not say.

Q. Don't know anything about it?—A. No, sir.

Mr. HELLENTHAL. That is all.

V. A. PAINE.

Subscribed and sworn to before me this 23d day of August, 1919.

[SEAL.]

G. C. WINN,

Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 22d day of August, 1919, the foregoing witness, V. A. Paine, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 23d day of August, 1919.

[SEAL.]

G. C. WINN,  
*Notary Public for Alaska.*

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq.; John Rustgard, on behalf of contestant; and J. A. Hellenthal and John R. Winn, on behalf of contestee.

This is the time set for the taking of the deposition of Mr. A. Van Mavern. He has been duly subpoenaed, but he is away from the city at the present time, and I ask that the taking of the deposition be continued until Friday, the 29th day of August, at 5 o'clock p. m. I can state that Mr. Van Mavern told Mr. Marshall, as I am informed, that at the time he was served with a subpoena he had a trip planned and a ticket bought, or words to that effect, but that he would be back in a few days. For that reason I think the deposition should be continued.

Dated at Juneau, Alaska, Friday, August 22, 1919, 5 o'clock p. m.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq.; John Rustgard, on behalf of contestant, and J. A. Hellenthal and John R. Winn, on behalf of contestee.

Notice having been duly given and process served on A. Van Mavern for the taking of his deposition on behalf of contestant before the above-named officer, on Friday, August 22, at 5 o'clock p. m., and it being necessary for said witness to be absent from the city on that day, the case was continued until the 29th day of August, 1919, and, pursuant to agreement to continue the case, the following proceedings are now had, to wit:

#### DEPOSITION OF A. VAN MAVERN.

A. VAN MAVERN, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD.

Q. State your full name.—A. Arthur Van Mavern.

Q. Where do you reside, Mr. Van Mavern?—A. Juneau, principally.

Q. Now, Mr. Van Mavern, when did you first establish your residence in Juneau?—A. About six years ago.

Q. And you have had Juneau as your residence since?—A. Yes, sir.

Q. You were at Ketchikan on the 5th of last November?—A. Yes, sir.

Q. And you voted at the Charcoal Point precinct at that time?—A. Yes, sir.

Q. How did you come to vote there?—A. Because I happened to be in Ketchikan is all, I think.

Q. Why did you not vote at Ketchikan instead of Charcoal Point?—A. I went there first, and there was some question as to whether I would be permitted to vote there, and so I walked out to Charcoal Point.

Q. You were at that time a resident of Juneau?—A. Yes, sir. I suppose I was. I was not a resident of Juneau any more than Ketchikan, in reality.

Q. How long had you been at Ketchikan?—A. Two days; perhaps three at that time.

Q. How long did you remain there?—A. I don't remember now; perhaps four or five days.

Q. You were there taking orders for goods?—A. Yes, sir.

Q. You had your office here in Juneau?—A. Yes, sir.

Q. You had a room at the hotel here in Juneau?—A. Yes, sir; as a transient, not a permanent room at that time.

Q. Juneau was your headquarters?—A. Yes, sir; considered such.

Q. And from Juneau you made trips as a traveling salesman to the various smaller towns in southeastern Alaska?—A. Yes, sir.

Q. You think you were just as much a resident of any other small town in Alaska as Ketchikan?—A. Yes, sir; or Juneau, really.

Q. Well, you had an office in Juneau?—A. Yes, sir; but I did not spend any more time here than in Ketchikan.

Q. Where did you have your personal belongings?—A. In Juneau.

Q. In Juneau. Were you here in Juneau last winter?—A. All of the winter; yes, sir. That is, well, I was out about a month.

Q. Were you here in March and April?—A. Yes, sir.

Q. Did you vote at the last city election?—A. No; I was out of town, I believe.

Q. Did you register for the city election?—A. Yes, sir; I think I did; last fall.

Q. You registered for this city election held this spring?—A. This spring? I did not register especially for that election. I think I was registered, though. That would apply for this year, would it not?

Q. When do you think you registered last?—A. I think it was last fall, before the Territorial election.

Q. When you voted at Charcoal Point, who did you vote for?—A. I voted for Mr. Sulzer.

Mr. RUSTGARDS. Take the witness.

Cross-examination by Mr. HELLENTHAL:

Q. You are a commercial traveler, are you not?—A. Yes, sir.

Q. As such, you frequent all the various towns in southeastern Alaska?—A. Yes, sir.

Q. Juneau, being the larger town, you probably spend more time in Juneau than in the other towns?—A. I think I do; yes, sir.

Q. But you spend proportionately as much time at Ketchikan as at Juneau, do you not?—A. Very nearly the same, I think.

Q. Very nearly the same?—A. I think so.

Q. Your home is just as much at Ketchikan as Juneau?—A. I believe it is.

Q. You do not maintain a permanent room at Juneau?—A. I did not at that time. I do now.

Q. You have no place in Juneau you call your home, any more than at Ketchikan?—A. No more than that I have an office.

Q. Your company has an office?—A. Yes, sir.

Q. But not your personal office?—A. No.

Q. You have nothing to do with that office any more than that you are the representative of the company that maintains it?—A. No.

Q. You have as much a home at Ketchikan as here and your personal belongings you carry with you from place to place?—A. Most of them; not all. I generally have some left in storage at the hotel.

Q. The same as at the hotel at Ketchikan?—A. Often; yes, sir.

Q. You do that at any time along your route?—A. Yes, sir.

Q. But you have no special place at which you keep your belongings?—A. Not at that time.

Q. You receive your mail wherever you go?—A. Yes, sir.

Q. And you have your laundry done wherever you go?—A. Yes, sir.

Q. You stop at a hotel in whatever town you are in?—A. Yes, sir.

Q. And get a transient room?—A. I do.

Q. And did that at Juneau, as well as at Ketchikan?—A. Yes, sir.

Q. Your relations with the hotels at Juneau were the same as your relations with the hotels at Ketchikan?—A. The same.

Q. Was your vote challenged when you voted, Mr. Van Mavern?—A. No, sir.

Redirect examination by Mr. RUSTGARD:

Q. When you offered to vote at Charcoal Point you gave your place of residence as Juneau?—A. I believe I did.

Q. You gave it as Juneau?—A. I think so.

Q. And so it was written on the books?—A. Yes, sir.

Q. At that time where did you take your mail?—A. It probably came to Juneau and was forwarded to me at Ketchikan, although I don't recollect.

Q. You have a post-office box?—A. At Juneau.

Q. Last summer and fall?—A. Yes, sir.

Q. How long have you had a post-office box?—A. For six years, ever since I first came here.

Q. At Ketchikan have you a post-office box?—A. No, sir.

Q. Anywhere except at Juneau?—A. No, sir. My mail comes here and it is forwarded to whatever point I happen to be at.

Q. Do you belong to any fraternal organizations?—I. I do.

Q. Where are the lodges to which you belong?—A. All in Juneau.

Q. All in Juneau—do you belong to any lodge in Alaska outside of Juneau?—A. I do not.

Mr. WINN (interrupting). I object to that as incompetent and immaterial in this case, to establish a residence. A man might belong to a lodge in New York and live in Juneau.

Q. When you registered from Juneau at the time you voted at Charcoal Point it was because at that time you counted Juneau your place of residence?—A. Yes, sir; I considered this my headquarters.

Mr. RUSTGARD. That is all.

Recross examination by Mr. HELLENTHAL:

Q. By headquarters you mean that your company maintained its office at Juneau?—A. Yes, sir.

Q. It was the headquarters of your company?—A. Yes, sir.

Q. To that extent it was your headquarters?—A. Yes, sir.

Q. But not in any other sense?—A. Not from the standpoint of residence.

Q. And the post-office box—was that not maintained by your company and paid for by your company?—A. Oh, yes; it was.

Q. You had no private post-office box?—A. Well, it is in my name, but it's paid for by the company.

Q. All your mail is sent here to the company office and sent to you from here?—A. Yes, sir.

Q. That arrangement is such, is it not, because your company has its office here?—A. Yes, sir.

Q. It is the only office the company maintains in the Territory?—A. Yes, sir.

Q. You have no personal office here?—A. I have not.

By Mr. RUSTGARD:

Q. Who is in charge of the office?—A. I am.

Q. Is there anybody else connected with the office?—A. It is locked when I am gone, except that I share with Armour's representative when he is here.

Q. What is that company?—A. Armour & Co.

Q. You were in charge of that office?—A. Yes, sir. Not for the two concerns. The office is shared by the two. When both are gone the office is locked.

Q. You are the only representative of the company in southeastern Alaska?—A. Yes, sir.

Q. And your headquarters are in Juneau?—A. Yes, sir.

By Mr. HELLENTHAL:

Q. Again, may I ask, by your headquarters you mean the headquarters of the company?—A. Yes, sir.

Q. They keep in that office samples and things of that character?—A. Yes, sir.

Q. And you use it as the company's headquarters?—A. Yes, sir.

By Mr. WINN:

Q. Do you represent Armour & Co.?—A. No, sir.

Q. Armour's representative shares the office with you?—A. That is all.

Mr. HELLENTHAL. That is all.

Mr. RUSTGARD. That is all.

A. VAN MAVERN.

Subscribed and sworn to before me this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss.*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness,

Arthur Van Mavern, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations, did testify, as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof, I have hereunto set my hand and official seal this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

To the above-named contestee and his attorneys, J. A. Hellenthal and J. R. Winn.

Take notice that before Grover C. Winn, a notary public, on Monday, the 25th day of August, 1919, at 2 o'clock p. m. of that day and at the office of the surveyor general of the Territory of Alaska, the contestant, James Wickersham, will take the deposition of Martin George, a resident of Juneau, Alaska, as witness for the said contestant.

Dated this 22d day of August, 1919.

JAMES WICKERSHAM, Contestant.  
By JOHN RUSTGARD,  
Attorney for Contestant.

Copy of the foregoing notice received this 22d day of August, 1919, at Juneau, Alaska.

JNO. R. WINK.

#### DEPOSITION OF MARTIN GEORGE.

MARTIN GEORGE, called as a witness on behalf of the contestant, being by the notary public first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name.—A. Martin George.

Q. What is your occupation at the present time?—A. Chief clerk surveyor general and secretary's office.

Q. How long have you occupied that position?—A. Since 1914.

Q. Is there a surveyor general at the present time?—A. There is not.

Q. Charles E. Davidson, who was the surveyor general of the Territory of Alaska and ex officio secretary of the Territory, passed away on or about the 8th day of this month?—A. Eighth of August.

Q. And there has no appointment been made to fill his office since?—A. No, sir.

Q. As chief clerk of the surveyor general's office, are you in charge of his office, both as surveyor general and as secretary of the Territory?—A. Well, I am as surveyor general and as secretary, as far as the Federal part of it is concerned, and the governor recognizes me as such for the Territory.

Q. But you have taken charge of the office?—A. Yes.

Q. You are exercising the functions of the clerk in charge?—A. Clerk in charge.

Q. You are recognized as such by the other government officials?—A. Yes.

Q. Now, I will ask you, Mr. George, whether or not there are in the office of the secretary of the Territory of Alaska any minutes of the proceedings of the canvassing board for the Territory, canvassing the returns of the election of November 5, 1918?—A. There is a certified copy of the minutes.

Q. Will you please produce that certified copy? (The witness does so.)

Q. This is a certified copy, certified to by G. W. Folta as stenographer, under date of April 28, 1919, containing, besides the certificate and the indexes, 204 pages; is that correct?—A. I don't remember the number of pages.

Q. I ask you to look at it, so the record may show.—A. Yes, sir.

Q. The paging does not include the index or the certificate or the title page?—A. No.

Q. This is a part of the records of the secretary of the Territory of Alaska?—A. Yes.

Q. I would like to ask you, Mr. George, to make this as an exhibit. Call it "Exhibit A" and attach it to your deposition and let it be forwarded to Washington.



Judge WINN. The whole record?

Mr. RUSTGARD. Yes.

Judge WINN. Are you offering it in evidence now? Is that your way of offering it in evidence?

Mr. RUSTGARD. It will then be part of his deposition, and as such will be part of the evidence.

Judge WINN. I object to it as not the best evidence; it is incompetent and immaterial for any purpose, and it is uselessly encumbering the record and testimony taken in this contest case.

Mr. RUSTGARD. I will say that during the last contest two years ago the same proceedings were had and the same records were sent up in the same manner, and I think by way of deposition. At that time all the records of the governor's office, containing the returns of the election from the various precincts, were sent up as an exhibit. This time they were ordered sent by resolution of Congress, as I understand it; but that does not include these minutes.

Judge WINN. Well, I have my objection in.

Mr. RUSTGARD. That is all.

Judge WINN. There is no cross-examination for the reason that the competency or materiality of the testimony offered is not shown, and no particular portion of the record which is offered in evidence is pointed out as furnishing evidence upon which the contestant relies; therefore it is impossible to cross-examine under the circumstances.

Mr. RUSTGARD. Before we close let me ask for this stipulation: Will you stipulate the record may show that this proceeding is a continuance of the hearing of which I gave formal written notice, to take place last Monday, the 25th?

Judge WINN. Yes; I will stipulate to that? Mr. Rustgard. But I further object to the attaching of this copy of the proceedings that has been testified concerning to the witness's deposition, for the reason that it is claimed that this is a part of the original records of the secretary of the Territory, and there is no law by which the secretary of a Territory can be forced to part with the original records of his office. If anything is admissible at all along this line, or if any record is admissible, it would be a properly certified copy from the proper office, and this is only a certified copy itself of the original; and, therefore, even a certified copy of this would not be proper, because it would be a certified copy of a certified copy.

Mr. RUSTGARD. Let me ask another question, then.

Q. Mr. George, this does not purport to be a copy of a copy, but a transcript of the stenographer's notes of the proceedings?

The WITNESS. Yes.

Q. And an original transcript of that; isn't that a fact?—A. Yes, sir.

Mr. RUSTGARD. That is all.

Judge WINN. We still further urge the objection that it is now shown more clearly that this should not leave this office, because it is a part of the original records of the office of the secretary of the Territory, and should be here subject to public examination by anyone who desired to gain information therefrom. I request at this time that the secretary of the Territory do not send this copy from his office.

(Witness excused.)

At the request of Mr. John Rustgard I here desire to state that on the question of permitting the record book marked "Exhibit A," being the proceeding of the canvassing board for the Territory sitting on the election returns of November 5, 1918, to leave the office of the surveyor general at Juneau, Alaska, I have submitted this matter to the attorney general for the Territory, and on his advice I must decline to permit it to leave the office, on the grounds that it is one of the official records.

MARTIN GEORGE,  
Chief Clerk in Charge.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, Martin George, having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, in his direct and cross examinations, did testify as set forth in the foregoing deposition; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten

form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof, I have hereunto set my hand and official seal this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

To the above-named contestee and his attorneys, J. A. Hellenthal and John R. Winn:

Take notice that before Grover C. Winn, a notary public, at his office in Juneau, Alaska, on Thursday, the 28th day of August, 1919, at 4 o'clock p. m. of that day, contestant James Wickersham will take the depositions of E. H. Sherman, E. Valentine, Glen Bartlett, Ed. Russell, and O. P. Hubbard, all residents of Juneau, Alaska, as witnesses for contestant in the above entitled proceeding.

Dated August 25, 1919.

JAMES WICKERSHAM, Contestant.  
By JOHN RUSTGARD,  
Attorney for Contestant.

Copy of the above notice received at Juneau, Alaska, this 25th day of August, 1919.

J. A. HELLENTHAL

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska:

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on O. P. Hubbard, for the taking of his deposition on behalf of contestant, before the above-named officer, on Thursday, August 28, at 4 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF O. P. HUBBARD.

O. P. HUBBARD, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD.

Q. State your full name, Mr. Hubbard.—A. O. P. Hubbard.

Q. Where do you reside, Mr. Hubbard?—A. Well, I suppose I call it Juneau at the present time.

Q. Before you came to Juneau, where did you reside?—A. Valdez.

Q. How long did you live at Valdez?—A. Well, I went there in June, 1902, and it has been my home up until last March, when I came over here.

Q. You were in Valdez on the 5th of last November?—A. Yes.

Q. You were well acquainted with the people of Valdez during last fall and during last election campaign?—A. Fairly well acquainted. I think I knew people generally there.

Q. You were engaged in business in Valdez during many years?—A. Yes, sir.

Q. Did you know F. J. Hayes?—A. Very well.

Q. Who was he?—A. He was a stenographer; works for Mr. Donahoe principally.

Q. Did you see much of him during the last election—the 5th of November?—A. Prior to election day?

Q. On election day?—A. Yes, sir; quite a good deal.

Q. What was he busying himself with during that time?—A. Bringing the folks to the polls and seeing that they got the vote out.

Q. Did you know at that time Richard H. L. Noaks?—A. Yes, sir.

Q. What was his occupation?—A. Signal Corps man.

Q. Do you know M. H. Faust?—A. Yes, sir.

Q. What was his occupation?—A. Signal Corps man.

Q. Both of them in the service of the United States as such?—A. Yes.

Q. They were enlisted in the United States Army as Signal Corps men?—A. They were regular Signal Corps men. I don't know anything about where they enlisted, etc.; only they were in uniform, and we all knew them as Signal Corps men. We saw them in the office, taking and sending messages, etc.

Q. Did Noaks and Fatist exhibit any activity during the election day in connection with election?—A. I saw them bringing others to the polls, coming with them, and—

Q. You mean the other Signal Corps men?—A. I would say generally they were Signal Corps men.

Q. What candidate were those parties supporting for Delegate to Congress?

Mr. HELLENTHAL (interrupting). I object to that as being both leading and immaterial.

A. Charles A. Sulzer.

Q. I will ask you the same question with reference to F. J. Hayes, stenographer for Donahoe. His activity consisted in helping along with the election?

Mr. HELLENTHAL (interrupting). I object to that.

A. Certainly; he was working for Mr. Sulzer. He was one of the campaign managers there.

Q. Now, what would you say as to whether or not these Signal Corps men you have mentioned openly supported Charles A. Sulzer as Delegate to Congress?

Mr. HELLENTHAL (interrupting). I object to that as immaterial and incompetent.

A. I say they did.

Q. State whether or not the Signal Corps men at Valdez generally were advocates of Sulzer's election.

Mr. HELLENTHAL (interrupting). I object to that as leading and incompetent.

A. With the exception of one man, the Signal Corps men were all working for Mr. Sulzer; talking for him and working for him.

Q. Did you know Deputy Marshal C. W. Mossman?—A. Yes, sir.

Q. Did you know Mrs. C. W. Mossman?—A. Yes, sir.

Q. Who were they?—A. Mr. Mossman was deputy marshal and Mrs. Mossman was his wife. He was working there with Brenneman—

Q. Located where?—A. Anchorage.

Q. At what place was their residence at the time of the last election, in November?—A. Anchorage. They had left Valdez anywhere from six months to a year prior to election.

Q. They were living at Anchorage?—A. Yes, sir.

Q. And they were at Valdez on the 5th of last November?—A. They were.

Q. And voted there?—A. Yes, sir. They voted. I was there when they came in and voted.

Q. Did both or either of them display any partisanship in favor of Sulzer on election day?

Mr. HELLENTHAL (interrupting). I object to that as immaterial.

A. That I do not know. I only saw them in the voting booth.

Cross-examination by Mr. HELLENTHAL:

Q. This deputy marshal lived at Valdez before he went to Anchorage?—A. Yes, sir. Before he was assigned to Anchorage.

Q. He was deputy marshal at Valdez?—A. Yes, sir.

Q. And then went to Anchorage on official business as deputy marshal?—A. He was made the chief deputy marshal at Anchorage in place of Mr. —, what was his name, the one that went outside? Anyway, he took his place.

Q. His wife was at Valdez part of the time and at Anchorage part of the time?—A. No; I think she had gone to Anchorage, and they were married over there.

Q. He had lived at Valdez how long prior to that time?—A. Oh, he was there in Valdez for, I should say, 10 years, maybe longer.

Q. Ten years?—A. Maybe longer.

Q. Made that his home for a matter of 10 years?—A. If he was away at any time for any length of time I do not remember, but I was away part of the time myself.

Q. To the best of your recollection, he was there—made Valdez his home—for 10 years?—A. Yes, sir.

Q. He acted as deputy marshal at Valdez?—A. Under Mr. Brenneman. I think probably that was his first experience as deputy marshal.

Q. Then he went to Anchorage on official business as marshal?—A. I suppose you would call it official business. He was assigned to Anchorage as chief deputy.

Q. How long had he been at Valdez prior to election?—A. I could not state exactly.

Q. You do not know that?—A. I could not state exactly.

Q. You do not know how long he remained after election?—A. I do not think he remained any after election. The term of court had closed and I think they went home.

By Mr. RUSTGARD:

Q. He was there to attend the term of court?—A. He brought prisoners over. Mr. RUSTGARD. That is all.

O. P. HUBBARD.

Subscribed and sworn to before me this 3d day of September, 1919.

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA, Territory of Alaska—ss:

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, O. P. Hubbard, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof, I have hereunto set my hand and official seal this 3d of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn, on behalf of contestee.

Notice having been duly given and process served on Ed C. Russell, for the taking of his deposition on behalf of contestant, before the above-named officer, on Thursday, August 28, at 4 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF ED. C. RUSSELL.

ED. C. RUSSELL, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name.—A. Ed. C. Russell.

Q. Where do you live?—A. Juneau.

Q. How long have you lived here?—A. Twenty years.

Q. Do you know Mr. E. G. Morrissey?—A. Yes, sir.

Q. Did you know him during the last fall and summer?—A. Yes, sir.

Q. What time was he in Juneau last fall?—A. He was here about—he was here up to about three weeks before election—was here probably three weeks. That was late in September and probably a little while in the early part of October.

Q. And then he went away?—A. Yes, sir. He went away.

Q. When did he come back?—A. He came back about a week before election.

Q. What was his occupation here?—A. He was private secretary for Sulzer.

Q. By "Sulzer" you mean Charles A. Sulzer?—A. Charles A. Sulzer.

Q. What kind of work was he engaged in during the time he was in and about Juneau last fall?—A. Political work.

Q. You mean campaigning for Sulzer?—A. Well, political work; I guess it was campaigning.

Q. Do you know where he stopped while he was in Juneau?—A. Yes, sir. At the Gastineau.

Q. Gastineau Hotel?—A. Yes, sir.

Q. Was he engaged in any other work or occupation except campaigning?—A. Not that I know of.

Q. If he had been you would likely have known it?—A. Probably.

Q. You were well acquainted in Juneau during the summer and fall?—A. Yes, sir.

Q. If he had been here prior to the early part of September would you have known it?—A. Yes, sir.

Q. You knew as soon as he came to the hotel?—A. He came here just—as I recollect, he came here just a few days in advance of Mr. Sulzer. Came to make arrangements for Mr. Sulzer.

Q. Anyway, it was at about the time he came here for his campaign?—A. Yes, sir.

Q. Prior to that time, Mr. Morrissey had not been here?—A. No.

Q. He is the same Morrissey that voted at No. 2 precinct?—A. He voted at No. 2 precinct.

Q. In Juneau?—A. Yes, sir.

Cross-examination by Mr. HELLENTHAL:

Q. Mr. Morrissey had been a resident of Alaska for many years, had he not?—A. I don't know. I know he was in the Signal Corps at Fairbanks and afterwards worked on the Fairbanks paper. But when he came out he either came through Juneau at night or went on the outside route.

Q. You know he had been a resident of Alaska for years?—A. I would not say for years. I know he had resided in the interior.

Q. For considerable length of time?—A. I do not know. I think probably he was in there—

Q. What paper was he on?—A. After he left the Signal Corps he worked for Thompson on the News-Miner.

Q. Do you know how long?—A. I imagine he worked for Thompson somewhere in the neighborhood of a year.

Q. That was before he became secretary to Mr. Sulzer?—A. Before he became secretary to Mr. Sulzer.

Mr. HELLENTHAL. That is all.

Mr. RUSTGARD. That is all.

ED. C. RUSSELL.

Subscribed and sworn to before me this 3d day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
Territory of Alaska, ss:

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, Ed. C. Russell, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross examinations, did testify as set forth in the foregoing deposition; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction; and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 3d day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on Emery Valentine for the taking of his deposition on behalf of contestant before the above-named officer on Thursday, August 28, at 4 o'clock p. m., the following proceedings were had, to wit:



## DEPOSITION OF EMERY VALENTINE.

EMERY VALENTINE, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. Your name is Emery Valentine?—A. Yes, sir.

Q. And you are a resident of the city of Juneau?—A. Yes, sir.

Q. How long have you been a resident of this city?—A. Oh, I don't know—more than 33 years.

Q. Have you ever held any official position in the city?—A. Yes, sir.

Q. What positions have you held?—A. Elected as mayor.

Q. How many times?—A. Eleven times, I think.

Q. Are you acquainted with that portion of the town of Juneau known as Auk village?—A. Over here to the north?

Q. Yes.—A. Yes, sir.

Q. That is the Indian settlement in the city?—A. Yes.

Q. It is on the shore of Gastineau Channel?—A. Yes, sir.

Q. Do you know how long that has been the Indian settlement?—A. The Indians were there in—settled there—I mean they were there in May, 1886. When I first came here there was a large settlement there. No one else, only Indians, lived there.

Q. That is an exclusively Indian settlement?—A. It was at the time.

Q. And has continued to exist as such?—A. A certain portion there is occupied by Indians. It is being settled up by white people beyond and back of it, but in 1886 there was nothing on that side of the ridge. Not until the last four or five years was there anything there excepting Indians.

Q. But referring to that portion known as Auk village, or Indian village, is there anybody living there except Indians?—A. No; not in the Indian village.

Q. What you mean to say is that as the city grew white people settled around the Indian settlement?—A. Yes. Some on this side, on Courthouse Hill, some in the rear, and some over beyond.

Q. Now, Mr. Valentine, has that part of the town of Juneau occupied by these Indians and known as Auk village ever been taxed?—A. No; not by the city.

Q. After Juneau became a municipal corporation it has been the custom of the city council every year to levy a personal and real estate tax?—A. On the white inhabitants.

Q. Has such tax ever been levied upon those Indians or any of the property which they occupy?—A. No; never took any tax from the Indians.

Q. What has been the reason for that policy of the city government—

Mr. HELLENTHAL (interrupting). We object to that. Mr. Valentine and the city have their own reasons for doing things.

A. No; we was told we had no jurisdiction. It was an Indian reservation. I have been told that by the agents of the Indian schools.

Q. Agents of the Bureau of Education?—A. Yes, sir. The fellows who have charge of the Indians here. I have been visited by those fellows a number of times and told not to bother with anything out there; that they would not tolerate interference.

Q. They have their own schoolhouses?—A. Yes, sir.

Q. That the Government school maintained by the Bureau of Education of the United States?—A. Yes, sir.

Q. And that school is only for natives?—A. Only for natives; yes, sir.

Q. The city of Juneau maintains public school and high school for the rest of the inhabitants?—A. Yes, sir; for the white people.

Q. The Federal Government has nothing to do with that school?—A. Not a thing.

Q. Do you recall, Mr. Valentine, in the year 1914, whether or not any offer was made by the Bureau of Education to the governor of Alaska to have the tide flats in front of Auk Village reserved for the natives?—A. Well, I know it was reserved—

Mr. HELLENTHAL. I object to that.

A. (Continuing.) I know it was reserved and is reserved now. Nobody has ever built in front of them. It is kept open for boats. I was at one time going to try to reclaim the tide flats and have it surveyed and was forbidden by one of the Government agents to put any obstruction or anything else there in front of the Indian village.

Q. The Government agent was looking after the interest of the natives?—A. Yes, sir. Said the natives had the right to land their boats there, and not to

interfere with them in any shape or manner. We never did interfere with them. We understood we was to keep our hands strictly off the Indian village, so we always did.

Mr. RUSTGARD. That will be all, then.

Cross-examination by Mr. HELLENTHAL:

Q. Mr. Valentine, the Indians in Alaska, all through the country, live on the beach, don't they?—A. Ordinarily, I think they do.

Q. Yes; they do that because they usually fish and have their boats—A. I never knew of them living any place except on the beach.

Q. The reason for that is that they usually have small boats in which they usually go fishing in the summer, etc.?—A. Most of them have small boats, fish boats, canoes, etc.; yes.

Q. And that is true with these as well as with any Indians?—A. Well, there's many of them that lived out there that used to work in the Basin mines.

Q. A great many of the Indians that live in Auk Village worked in the mines in the Basin?—A. Yes, sir.

Q. And some of them fished?—A. Yes; I think so.

Q. When you came here Auk Village was rather a crude affair, was it not?—A. No; I think there was more houses there probably than there is now. Quite a settlement—

Q. Did they have a clubhouse there just as they have now?—A. No; not at that time. They used to meet at one of the Indian's houses.

Q. They have a gymnasium?—A. They have some sort of house where they meet. I think they sometimes meet at the house of one of the Indians; his name is ———.

Q. Have their dances?—A. That I could not say. I have not been there. They have some sort of clubhouse. It was pointed out to me.

Q. Quite a good-looking building?—A. I judge that it is a building 40 feet long by 24 feet wide.

Q. And some of the houses are better than others?—A. Oh, yes.

Q. Some pretty good and some not so good; that right?—A. Some pretty good and some not so good.

Q. They have a sort of hotel there, too?—A. I do not know.

Q. Now, when you came here the Indian school—you know where that is situated, don't you?—A. They held school in 1886 in a little cottage across in front of the old Catholic Hospital. Mrs. Hyde was teaching school there when I first came here.

Q. In the village?—A. Right across from the Catholic Hospital. One of the little cottages.

Q. Afterwards they built a schoolhouse in the village?—A. Yes. That is, it would be in the village—out on the reservation where the governor's mansion is now.

Q. The governor now lives in what was the Indian village when you came here?—A. Yes. Although when we surveyed that was one of the reservations for Government purposes, the same as the block where the school was and the courthouse.

Q. Where the Indians live now is below the tide flats, isn't it—I mean, below the line of high tide?—A. No; they live above high tide. Of course, some of them live back on the hill, back behind this row.

Q. That is occupied by white residences?—A. Away up above the Indian houses the white men have houses.

Q. The house of Mr. Martin, who was for a long time superintendent of the Alaska Electric Light Co., was there?—A. Away up, on top of the ridge.

Q. On one of the streets the Indians lived on, a long there?—A. Yes. I remember he had a long lawsuit over that lot. I think he finally bought the Indian out.

Q. Since then the street has been built up?—A. They built what is known as Distin Avenue, I believe.

Mr. HELLENTHAL. I guess that's all.

Mr. RUSTGARD. That is all.

EMERY VALENTINE.

Subscribed and sworn to before me this 3d day of September, 1919.

[SEAL]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, Emery Valentine, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 3d of September, 1919.

[SEAL.]

G. C. WINN,  
*Notary Public for Alaska.*

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on E. H. Sherman for the taking of his deposition on behalf of contestant before the above-named officer on Thursday, August 28, at 4 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF E. H. SHERMAN.

E. H. SHERMAN, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name, Mr. Sherman.—A. E. H. Sherman.

Q. Where do you live, Mr. Sherman?—A. Juneau.

Q. How long have you lived here?—A. Off and on for 22 or 23 years; since 1895.

Q. Are you acquainted with G. R. McNeill?—A. Yes, sir.

Q. Did you know Mr. McNeill last summer?—A. I did.

Q. How long have you known him?—A. I have known him for 10 years, I guess.

Q. What business was he engaged in last summer in Juneau?—A. Well, he was running the place over there they call the Kentucky Bar, I guess.

Q. The Kentucky Bar is a soft-drink parlor?—A. Yes, sir.

Q. He was running that up to what time?—A. He was running it up to—I missed him—I used to step in there once in a while and buy a cigar or something; I used to know him in the westward. I stepped in there one day and I didn't see him and I asked them—I says, "Where is Bob?" They said—

Mr. WINN (interrupting). I object to that as hearsay.

Q. Up to what time did you see him there in the Kentucky?—A. Well, it was somewhere along the forepart of October I missed him.

Q. Can you state more definitely what part of October that was?—A. Well, I don't know as I could. It was early in October I discovered he was gone. I could not be positive as to the day.

Q. Do you know what time he sold out his business?—A. I have since learned; yes, sir.

Q. What time was that?—A. The 6th of October.

Q. Up to that time he stayed here, attending to that business?—A. Yes, sir.

Q. The 6th of October, 1918?—A. Yes, sir.

Q. Where did he go to from here, so far as you know?—A. Warm Springs Bay, Alaska.

Q. How far is that from here, approximately?—A. Sixty miles, I guess. I don't know. About 60 miles, I judge. How far is that, Valentine?

Mr. VALENTINE. Eighty-six miles.

Q. During the last summer and up to the time he left here he was a resident of Juneau?—A. Yes, sir. I used to see him every day practically. I done some work for him around the place.

Q. He had been a resident of Juneau for several years prior to that time?—A. Yes, sir. He had been here, I guess, two or three years anyway. Come down from the westward.

Mr. WINN (interrupting). When did you find out, Sherman, that he sold out?

A. I missed him—I was going to tell you a while ago and you interrupted me—I didn't see him. I was in the U. & I. Restaurant. I used to step in there and get a cup of coffee. I missed him and said, "Where is Bob?" They said, "Sold out and gone."

Q. That is all you know?—A. Yes, sir.

Cross-examination by Mr. WINN:

Q. Don't you know he went over to Warm Springs Bay and stayed there a while and then came back to Juneau and stayed quite a while?—A. He came back here two or three weeks ago.

Q. You are sure?—A. I did not see him. I might have been away over night. I didn't see him.

Q. Don't you know that he came back and stayed here about a month or so and took a trip below?—A. He didn't stay here a month.

Q. Well, then, say a week.—A. I don't think he stayed a week. I would swear he didn't stay a month.

Q. Didn't you know he took a trip below and is back here now? Do you know that to be true?—A. I do not.

Q. You don't know it to be untrue, do you?—A. No.

Q. Have you been over there in the last few days?—A. I have been in there several times and never seen him.

Q. Been in there in the last two or three days?—A. Last night I was in there. The only time I seen Bob was on the street and in the hotel.

Q. Do you know if he owns a half interest in that place?—A. I do not.

Q. Do you know where he went from here?—A. Well, he told me he went to California, Idaho, Montana, and all round—

Q. He is back here now?—A. Yes, sir.

Q. You don't know he owns a half interest in that place, do you?—A. I have no reason to know it.

By Mr. RUSTGARD:

Q. You do not know whether or not he came back to Juneau at all last fall?—A. I never seen him until about a week or 10 days ago.

Mr. RUSTGARD. That is all.

E. H. SHERMAN.

Subscribed and sworn to before me this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a natary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, E. H. Sherman, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross examinations did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on Glenn C. Bartlett for the taking of his deposition on behalf of contestant before the above-named officer, on Thursday, August 28, 1919, at 4 o'clock p. m., the following proceedings were had, to wit:

## DEPOSITION OF GLENN C. BARTLETT.

GLENN C. BARTLETT, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name.—A. Glenn C. Bartlett.

Q. What is your occupation?—A. Manager of the Gastineau Hotel.

Q. Here in Juneau?—A. Yes, sir.

Q. How long have you occupied that position?—A. About three and one-half or four years.

Q. Were you such manager during the last summer and fall?—A. Yes, sir.

Q. Are you acquainted with E. G. Morrissey?—A. Yes, sir.

Q. When did you first become acquainted with him?—A. When he was Sulzer's secretary—when he first came out with Sulzer.

Q. What time did he first come out?—A. He registered at the hotel September 6.

Q. How long did he stay there?—A. Until November 16.

Q. That was 1918?—A. Yes, sir.

Q. He came to the hotel September 6, 1918, and left the hotel November 16, 1918?—A. November 16 he gave up his room.

Q. During that period of time he stayed at the hotel all the time?—A. No; he was in and out.

Q. How much of the time would he be gone?—A. I did not keep any record of that, because he kept his room—his room was kept.

Q. What did he keep the room for, do you know?—A. He had papers and books in there.

Q. What business, if any, was he engaged in?—A. He was acting as Mr. Sulzer's secretary.

Q. Mr. Sulzer came with him in September when he came?—A. Yes, sir.

Q. They were both engaged in campaign work?—A. Well, I could not say what they were engaged in.

Q. You did not know of anything else they were engaged in?—A. No.

Q. Has Mr. Morrissey been back to the hotel since?—A. No; he has not.

Q. Has he ever been in the city, so far as you know?—A. I don't believe he has.

Q. Or before September 6?—A. No.

Q. So far as you know, that was his first appearance in Juneau?—A. Yes, sir.

Q. And you know of no business he was engaged in except as secretary to Sulzer?—A. No.

Mr. RUSTGARD. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. That was a very laudable occupation, was it not?—A. Yes.

Q. You consider it such?—A. Yes.

By Mr. WINN:

Q. Do you know where Morrissey is now?—A. In Ketchikan.

Q. Running a newspaper?—A. Yes, sir.

Q. You know he has been a resident of Alaska for a good many years, don't you?—A. I had heard of him being out to the westward, or about a man up in the westward going to be Sulzer's secretary—that's all.

Mr. WINN. That is all.

GLEN C. BARTLETT.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
Territory of Alaska, ss:

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, Glenn C. Bartlett, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross examinations, did testify as set forth in the foregoing deposition; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form



under his direction; and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 30th day of August, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

To the above-named contestee and his attorneys, J. A. Hellenenthal and John R. Winn:

Take notice that before Grover C. Winn, a notary public, at said notary's office in Juneau, Alaska, on Saturday, the 23d day of August, 1919, at 4.30 o'clock p. m. of that day, and thence continuing, the contestant, James Wickersham, will take the depositions of John W. Wilson, whose residence is Treadwell, Alaska, and Richard McCormick, whose residence is at Douglas, Alaska, as witnesses for contestant.

Dated this 21st day of August, 1919.

JAMES WICKERSHAM,  
Contestant.  
By JOHN RUSTGARD,  
Attorney for Contestant.

Copy of the foregoing notice received at Juneau, Alaska, this 21st day of August, 1919.

J. A. HELLENTHAL.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenenthal and John R. Winn on behalf of contestee.

Motion was made and granted that the taking of the deposition of John W. Wilson be postponed from now, which was the time set for the taking of his deposition, until 4 o'clock Wednesday, August 27, 1919.

Dated at Juneau, Alaska, August 23, 1919, 4.30 o'clock p. m.

#### DEPOSITION OF JOHN W. WILSON.

JOHN W. WILSON, a witness produced on behalf of the contestant, being by the notary public first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name.—A. John Walter Wilson is my true name.

Q. Where do you live, Mr. Wilson?—A. At Treadwell, sir.

Q. That is on Douglas Island?—A. Douglas Island.

Q. How long have you lived there?—A. Nearly 10 years.

Q. Were you there last fall at election time?—A. I was.

Q. Were you during any part of the 5th day of November, 1918, at the town of Douglas?—A. I was.

Q. That place is close to the place known in history as Treadwell?—A. Douglas?

Q. Yes.—A. Yes; Douglas is close to Treadwell.

Q. They are both on Douglas Island?—A. Yes; both on Douglas Island.

Q. A couple of miles from Juneau?—A. Yes.

Q. You remember there were two polling places at Douglas?—A. Yes, sir.

Q. Do you know a party by the name of Jimmie Fox—Chief Jimmie Fox, sometimes called?—A. Yes, sir.

Q. Who is he?—A. He is one of the Indians on the beach.

Q. Is he the fellow who was candidate for chief last fall?—A. He was, I believe; it was in the papers so.

Q. Do you know Daniel Josephs?—A. Yes, sir.

Q. Who is he?—A. He is another Indian.

Q. Lives in Indian town in Douglas?—A. In Indian town; yes, sir.

Q. Do you know Gilbert Jackson?—A. Yes, sir.

Q. Is he also an Indian?—A. Yes, sir.

Q. Living in the Indian town at Douglas?—A. Yes, sir.

Q. Do you know William Brady?—A. Yes, sir.

Q. He is also an Indian?—A. Yes, sir.

Q. Living in Indian town at Douglas?—A. Yes, sir.

Q. Do you know Edward Marshall?—A. Yes, sir.

Q. He is one of the other Indians?—A. Yes; I am not so very well acquainted with him as I am with the others.

Q. Do you know John Willis?—A. Yes, sir.

Q. Is he another Indian living in Indian town at Douglas?—A. Yes, sir.

Q. Do you know John Harris?—A. Yes, sir.

Q. Is he another one of those Indians living in Indian town at Douglas?—A. Yes, sir.

Q. Were these Indians living in Indian town of Douglas on and prior to the 5th of last November?—A. Always lived there.

Q. Since you came to the Island?—A. Well; they have been living there as long as I can recollect—that is, some of them—some of them more recently—some of them come recently, the last three or four years.

Q. Did you see any of those Indians on election day last November—on the 5th of November?—A. Yes; I went into No. 1 polling booth about 2 o'clock and I saw two of them. They wished to vote and the election officer told them no, they were not entitled to vote. It was Dave Christoe, Elmer Smith's druggist, who seemed to be the spokesman there, and he wouldn't let them vote. That was about 2 o'clock.

Q. What precinct was that?—A. That was No. 1—City Hall.

Q. Now, did you see any of them after that?—A. No; I didn't, only Harris.

Q. Where did you see Harris?—A. I saw him—I was in polling booth No. 2 about 6.15 or 6.30, and he came in to vote. He was coming in and I said, "What are you going to do, Jack?" He said, "I am going to vote." I said, "You can not vote," and he went up and I challenged him for being a tribal Indian.

Q. And he voted?—A. Yes.

Q. Did he have any paper with him that he presented to the judges at the time?—A. Yes, sir; I believe he did, yes.

Q. Did he tell you who told him he could vote?—A. Yes, sir.

Q. Who did he say told him he could vote?—A. Frank Desmond and George Johnson.

Q. Who is Frank Desmond?

Mr. HELLENTHAL. We object to that as immaterial.

A. Well; he is a resident of Indian town there.

Q. And who is George Johnson?—A. He is the deputy United States marshal.

Q. At Douglas, Alaska?—A. At Douglas, Alaska.

Q. What time in the evening was this that you saw John Harris at the polls?—A. About 6.15, I think; about half or three-quarters of an hour before the polls closed.

Q. Now, had you seen any of the deputy marshals or any other court officials around Indian town that day?

Mr. HELLENTHAL. We object to that as immaterial.

A. Well; I saw George Johnson around there through the day, and Frank Bach.

Q. Who is Frank Bach? What official position, if any, does he hold?

Mr. HELLENTHAL. We object to that as immaterial.

A. Frank Bach, I believe, is the jailer over in the courthouse here—I believe that is his official capacity.

Q. Frank Bach is the jailer in the Federal jail at Juneau?—A. Federal jail at Juneau; yes.

Q. But he lives at Douglas?—A. Lives at Douglas.

Q. How long has he been jailer?—A. Oh, I presume—he was deputy marshal there for a while—I presume he has been jailer over a year—more than that. He supplanted Harry Morton as jailer—about 18 months, I should judge.

Q. He has been in the service of the administration for a great many years?—A. Oh, yes.

Q. Either as deputy marshal or jailer?—A. Yes.

Q. At that time George Johnson, the deputy marshal at Douglas, and Frank Bach, the jailer at Juneau, were busy around Indian town?

Mr. HELLENTHAL. I object to that as leading and as immaterial.

A. Johnson was more around Indian town, and Bach was between the two places, the polls—polling place No. 1 and Indian town.

Q. Did they have any carriage out that day?—A. No, sir; tried to get one.

Q. Which one did they try to get?

Mr. HELLENTHAL. We object to that as immaterial.

A. They had an automobile hired and desired to run it up through there, but the mayor held them up for a Territorial license and a city license before they could run it, so they abandoned that.

Q. They were going to run those automobiles during election day?

Mr. HELLENTHAL. I object to it as incompetent, no foundation laid for it, and immaterial.

A. I believe that was the intent.

Q. Did you see John J. Reagan, the assistant United States Attorney, over there that day?—A. No; I didn't see him. I didn't see Reagan there, but I was told he was there, by the election officers.

Q. Now, do you know whether or not these Indians theretofore had been regarded as voters?

Mr. HELLENTHAL. We object to that as immaterial.

A. They never voted on the Island before.

Q. Did they ever vote after that?

Mr. HELLENTHAL. We object to that as immaterial.

A. No, sir.

Q. Why didn't they vote?

Mr. HELLENTHAL. I object to it further because it has not been shown that there was but one Indian voted, and this is objected to as immaterial.

A. Well; I presume they knew they were not legal voters.

Q. These were Indians living by themselves in some shacks in Indian town at Douglas?—A. Known as shacks in Indian town; yes; on the beach.

Q. And no white men among them except a squaw man now and then?—A. I believe there are one or two squaw men down there.

Q. When did you first find out that any of these Indians had voted?—A. One of the election board told me.

Mr. HELLENTHAL. I object to that as hearsay and immaterial.

The WITNESS (continuing). I was at the Treadwell precinct, and he told me they were voting Indians. These six Indians voted. I asked him who they were and he told me, and I said, "Why did you let them vote?"

Mr. HELLENTHAL. I object to that as immaterial.

The WITNESS (continuing). He said, "The prosecuting attorney came with a paper and told us they were legal voters, and we could do nothing but take the law for it;" and I hurried down and just as I got down Harris came in, and I challenged him, and the board wanted to know why he shouldn't vote, and I said, "That is your business; you are the election board." I said, "I challenge him for being a tribal Indian," and he did vote, and I went out and there were two or three more of them at the door, and I told them if they voted I would have them all put in jail.

Q. Did you have any talk with Harris about who he voted for?

Mr. HELLENTHAL. We object to that as immaterial and not binding on Mr. Grigsby.

A. Yes, sir; I asked him who made out his ticket and he told me Frank Desmond, and I said it was all a Democratic ticket, and he said, "Yes;" he said, "You are a Democrat, Jack." I said, "Never mind that part of it." He had a sample ballot already made out.

Mr. RUSTGARD. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. Who is that Harris; is that Johnny Harris?—A. He used to be packer around here for many years. I guess Dick knows him better than I do.

Q. That isn't one of Dick Harris' boys?—A. Oh, no; Dick Harris' boys are half-breeds.

Q. All the Indians in Douglas live in Indian town, don't they?—A. Yes; don't know any that don't live in Indian town.

Q. They all live in that settlement there; it is an Indian settlement?—A. Indian settlement.

Q. They were living in that before the town of Douglas was settled, were they not?—A. You can answer that question better than I can. They have been living there since ever I came there.

Q. The whites live in one part of the town and the Indians in another; that is the way of it, isn't it?—A. Yes.

Q. The Indians are all subject to the laws of the United States and submit themselves to the Government of the United States, do they not?

Mr. RUSTGARD. I object to that as a legal question which the court can answer, and possibly some lawyers.

A. Well, I am not well enough versed in that to know. All I do know is tribal Indians tried to vote.

Q. Does this fellow Harris work in the mine?—A. Yes, sir.

Q. How long has he worked in the mine?—A. Well, when I first knew him he was a packer up at the dam; 1910, '11, '12, and '13 he was the chief packer, packing provisions; after that he used to work in the mine, and sometimes in the summer time he would go fishing—go backwards and forwards, but that was his home there; everybody knew him.

Q. Speaks pretty good English?—A. No.

Q. Speaks so you can converse with him, I mean?—A. Yes; not very clear, though.

Q. Is he married?—A. No.

Q. He lives in a cabin in the part of Douglas occupied by the Indians?—A. Yes.

Q. And as to the other two Indians you mentioned, who are they; the ones you know voted?—A. Oh, there was Johnny Fox.

Q. I mean of the ones you say vote—there were two others you mentioned?—

A. No; I only saw Harris vote; those had voted previous—I did not see them vote.

Q. You didn't see them vote?—A. No; just what the election board told me.

Q. The other men all work in the main mine?—A. Yes; some of them on the train, and they go fishing in the summer.

Q. The mines they work in are the Treadwell mines, with which you are also connected?—A. Yes, sir.

Q. They have been working in them for many years?—A. Many years.

Q. Some as miners, some as muckers, some as machine men?—A. I don't know any of them that are machine men; generally put them mucking, the Indians.

Q. But they do general jobs around the mine?—A. Yes, sir.

Q. General work, such as other men do?—A. Yes; sometimes they have one or two of them on the train crew.

Q. And they have been doing that ever since you have been in the country?—A. Yes, sir.

Q. Ever since 1910?—A. 1910.

Q. And when you came here the Indians were all living in that same locality where they are now living?—A. Yes, sir.

Q. In small houses—Indian houses?—A. Yes, sir.

Q. Some better than others?—A. Yes, sir.

Q. And what is true of these Indians is true of every other Indian in Douglas, is it not?—A. Yes; they all live together.

Q. There is no Indian government on Douglas Island?—A. No; they generally make their own laws there—the chief.

Q. You don't know of any laws they ever have executed in Douglas Island among the Indians, do you?—A. No; not laws.

Q. Now, Frank Bach and George Johnson are both residents of Douglas Island, are they not?—A. Yes, sir.

Q. And it is not an uncommon thing for you to see Mr. Johnson, the deputy marshal, in Indian town, is it?—A. I have seen him in Indian town before.

Q. Isn't he there oftentimes?—A. Not oftentimes; occasionally.

Q. On election days and other days as well; is not that true?—A. Well, I saw him in Indian town, passing down the flat there before; but on election day it was no passing thing—he was there quite a long time—hours.

Q. You didn't see him there for hours, did you, Jack?—A. He was down there.

Q. How long did you see him there personally?—A. I saw him personally passing on the track, but I was pretty sure he was there. Of course, I didn't see him all the time.

Q. The time you saw him personally was probably only a few moments?—

A. Yes; only Harris told me that he was down there.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. RUSTGARD:

Q. Those Indians, they observe their Indian customs generally carried out by Indians, having potlatches, recognizing chiefs, and so on, do they not?—A. They have.

Q. Do either one of those Indians you have mentioned so far speak English to any extent?—A. Yes; they speak very fair English—Johnny Fox speaks pretty fair English.

Q. You mean Jimmie Fox?—A. Jimmie Fox; yes; they speak pretty fair English.

Mr. RUSTGARD. That is all.

Recross-examination by Mr. HELLENTHAL:

Q. When did they have their last potlatch on Douglas Island, Jack?—A. Well, I have never been at their potlatches. All I can say of that is hearsay and talk about that. The old chief died some time ago; I guess he died six months previous to that election, the old chief, and I don't know as there have been any potlatches since that. They used to tell me they had those potlatches—it was common talk—I was never at their potlatches.

Q. As far as you know they have never had a potlatch on Douglas Island since you came there?—A. Only by hearsay.

Q. And this old chief that died, he was an old, ancient chief that had been elected years ago, was he not, Jack?—A. Years ago.

Q. Simply had the name of chief without exercising any authority; isn't that true?—A. Oh, I think he had lots of authority over them; they looked up to him as chief.

Q. You would say he had influence rather than authority, would you not?—A. Influence, yes.

Q. He had influence with the Indians?—A. Yes.

Q. But he did not exercise any authority the same as deputy marshals or other officials exercise authority, did he?—A. Oh, I don't know that.

Mr. HELLENTHAL. That is all.

Mr. RUSTGARD. That is all.

(Witness excused.)

#### DEPOSITION OF RICHARD M'CORMICK.

RICHARD M'CORMICK, a witness produced on behalf of the contestant, being by the notary public first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name.—A. Richard McCormick.

Q. Where do you live, Mr. McCormick?—A. Douglas.

Q. How long have you lived there?—A. I have lived on the island about 32 years.

Q. Referring to the general election held on the 5th of last November, were you an election officer on that occasion?—A. Yes, sir.

Q. In what capacity did you serve?—A. One of the judges.

Q. At what precinct?—A. No. 2.

Q. Douglas No. 2 precinct?—A. Yes, sir.

Q. Who were the other judges or officers of election?—A. Jim Garner, Jimmie Flaherty, Mrs. Couples, and Leo DeMitt.

Q. Are you acquainted with Jimmie Fox?—A. I am.

Q. Who is he?—A. An Indian.

Q. Living where?—A. In Douglas.

Q. In Indian town?—A. Yes, sir.

Q. Do you know Daniel Josephs?—A. Yes, sir.

Q. Is he also one of the Indians living in Indian town at Douglas?—A. Yes, sir.

Q. Do you know Gilbert Jackson?—A. Yes, sir; I do.

Q. Is he also one of those Indians?—A. Yes, sir.

Q. And William Brady?—A. Yes.

Q. He lived in Indian town, and is an Indian?—A. Yes, sir.

Q. Do you know Edward Marshall?—A. Yes.

Q. Is he one of the Indians living in Indian town at Douglas?—A. Yes, sir.

Q. Do you know John Willis?—A. No; I don't think I know Willis. I guess I know him by sight but not by name. I would be mixed up in picking him out.

Q. Do you know John Harris?—A. Yes.

Q. Is he an Indian living in Indian town in Douglas?—A. Yes, sir.

Q. Were those Indians we have mentioned, with the exception of John Willis, whom you say you are not sure you know, living in Indian town on and prior to the 5th of last November?—A. Yes, sir.



Q. Do you remember whether these Indians voted at No. 2 precinct, Douglas, on the 5th of last November?—A. Oh, yes; yes, they all voted.

Q. Now, then, will you state the circumstances under which they came to vote?

Mr. HELLENTHAL. That is immaterial.

A. Well, during the afternoon Mr. Reagan came in and bid us the time of day and pulled out a piece of typewritten paper and read it off to us. It was supposed to explain the qualifications of an Indian to vote, telling about how he severed his tribal relations and adopted the habits of a white man, living like a white man, so I asked him how we would know whether they had severed their tribal relations or adopted the habits of a white man—how we were going to pass judgment on whether they should vote or not. He said if they had one of them papers that was qualification, and had signed the paper. I asked him if they signed the paper, and he said, "Yes; they sign the paper."

Q. John J. Reagan?—A. John J. Reagan.

Q. Assistant United States attorney at that time?—A. Yes, sir.

Q. He had been assistant United States attorney for several years?—A. Yes.

Q. Now, what time in the afternoon did Mr. Reagan come to the polling place and make these statements to you?—A. Well, I should judge between 3 and 4 o'clock.

Q. In the afternoon?—A. I didn't notice the time particularly. It was a wet day, and I wasn't paying much attention to the time, but it was along between 3 and 4 o'clock in the afternoon, anyway.

Q. Now, did you ask him for any information about that subject, or did he come and volunteer it to you?—A. I asked him about things—how we would be able to judge whether they were qualified to vote or not when they came along.

Q. What I mean is this: What started the conversation? Did he come and tell you that some of these Indians had the right to vote, or that he expected some one of them to vote?—A. He came along and pulled out this paper and started to read it to us, telling us about the law in regard to the Indian vote.

Q. Did he do that before you asked him for any information on the subject?—A. Certainly did; yes. We didn't ask him anything about it because he introduced the subject by pulling out this paper and reading it to us. We didn't know what he was doing over there.

Q. And at that time he stated that any Indian who signed that paper was entitled to vote?—A. Yes, sir.

Q. At that time did you consider that any of those Indians had become American citizens by taking up their abode separate and apart from any tribe?

Mr. HELLENTHAL. We object to that as immaterial.

A. I never considered it because it was never brought before my notice, or never brought to my notice before—that is, that they came up before the board to vote. Of course, the question I have heard discussed several times, about their qualifications to vote; but it was the first time I ever saw them appear before the election board. I have been on the board over there at different times theretofore, and that was the first time it was ever brought before my notice that they were entitled to vote.

Q. Now, then, did any of those Indians appear and vote after that?—A. Yes, sir.

Q. How long after Reagan had called on you at the polls there did the Indians come and offer to vote?—A. Well, it must have been half or three-quarters of an hour.

Q. After Reagan had gone?—A. After Reagan had gone; yes, sir.

Q. Now, do you remember how long it was before the polls closed that those Indians voted?—A. Well, I think it would be about three hours. Of course, they were scattered from about 4 o'clock until 7—half past 6.

Q. They didn't all come in in a bunch?—A. They didn't all come in in a bunch; no. Two of them came in together, and then straggled in. They didn't all come in together.

Q. Did any of them come in with any white men?—A. No, sir.

Q. Now, did those Indians sign those papers?—A. They did.

Q. Who gave them the papers?—A. I don't know.

Q. Did they have those papers; did each Indian have a paper like the one Reagan read to you when they came in to vote?—A. Each one of them had one of those papers.

Q. Had each one signed that paper before he came in?—No, sir.

Q. Did they sign that paper in the polling place?—A. Yes, sir.

Q. Could they all write?—A. Every one of them.

Q. Could write their names?—A. Yes, sir.

Q. Now, do you remember what those papers stated?—A. Well, I can not remember more than the substance of it, which was that they had severed their tribal relations and were living apart from the tribe and adopted the habits of a white man, and they were entitled to vote.

Q. What became of those papers?—A. They were tied up in a bundle, put in an envelope and sent over with the balance of the record of the election and the votes.

Q. They were inclosed with the election returns?—A. Yes, sir.

Q. And sent to the governor's office?—A. Yes, sir.

Q. Now, at the time the Judges of election allowed those Indians to vote, did you consider that they had a right to vote? Did you, in your own judgment, consider they had a right to vote; or did you take the judgment of John J. Reagan on the subject?

Mr. HELLENTHAL. I object to that as immaterial.

A. Yes; we took the judgment of Mr. Reagan. I figured it out in my own mind that if we deprived them of the vote and they were entitled to it they lost the vote; whereas, if we let them vote, then it would be settled the way it is now. That is the way I looked at it. I didn't know whether they were entitled to vote or not. I didn't take the responsibility on my own shoulders.

Q. Did you allow them to vote just on the basis of your own judgment, or did you take the judgment of Mr. Reagan for it?—I took the judgment of Mr. Reagan.

Q. Was that also the sense of the other judges of the election?

Mr. HELLENTHAL. I object to that as incompetent.

A. It appeared to be; yes, sir.

Q. That is the way they discussed it at the time, that they would have to take Reagan's word for it; is that correct?

Mr. HELLENTHAL. I object to that as incompetent, irrelevant, and immaterial.

A. That is correct.

Q. Now, according to your judgment, did you consider that they had severed their tribal relations and taken up their abode separate and apart from the other Indians?

Mr. HELLENTHAL. I object to that as immaterial.

A. Well, I didn't know. I don't know whether I would be able to pass judgment on that or not. They are working for a living, living in houses down on the beach there.

Q. They are living in shacks, aren't they?—A. Call it whatever you are a-mind to—shacks or houses—they are all living on the beach there, of course, and there was a question raised in our minds whether they were entitled to vote or not, but when Mr. Reagan told us if they signed these papers they would be entitled to vote, of course we let them vote.

Q. It settled it in your mind?—A. Yes, sir.

Q. You have known those Indians a good many years?—A. Yes.

Q. You know they live huddled together in shacks on the beach, in what is called Indian town?—A. Yes, sir.

Q. Only Indians live there?—A. Yes.

Q. Aside from a squaw man or two?—A. Oh, I don't know whether you will find squaw men—of course there are no real white men and their families living along there. There are single men living along the beach between Treadwell and the sawmill—Indians and white men, but no white men living there with their families that I am aware of.

Q. Those Indians had never been permitted to vote before?

Mr. HELLENTHAL. I object to that as immaterial.

A. Not to my knowledge—never came under my personal observation.

Q. Well, so far as you know those Indians had never been permitted to vote before?—A. No.

Q. And you know they were not permitted to vote after that, at the city election?

Mr. HELLENTHAL. I object to that as immaterial.

A. No.

Q. Did you see George Johnson and Frank Bach that day?—A. No, sir; I did not.

Q. They did not come into the polling place?—A. Not that I remember.

Mr. RUSTGARD. That is all.

Cross examination by Mr. HELLENTHAL:

Q. What Mr. Reagan did when he first came in, Mr. McCormick, he had a document that he read to you?—A. Yes, sir.

Q. And in that document it was stated that Indians that had severed their tribal relations and had adopted the habits of civilized life could vote?—A. Yes, sir.

Q. Isn't that right?—A. Yes, sir.

Q. And the other documents to which the Indians subscribed were statements that they had adopted the habits of civilized life?—A. They were identically the same, as near as I remember.

By Mr. RUSTGARD:

Q. Was Mr. Smiser's name attached to any of those documents?—A. Mr. Smiser's name was attached; yes.

Q. To each of them?—A. Yes; I wouldn't say about the one that he signed, but the one that he left in our possession was signed by Mr. Smiser.

Q. Reagan left his copy with you?—A. Left a copy for us to read.

Q. That was signed by Mr. Smiser?—A. Yes.

Q. That was a statement by Mr. Smiser to the effect that the Indian who signed the affidavit had a right to vote?—A. No; that statement wasn't on the paper there—it was told verbally to us by Mr. Reagan that they signed it.

Q. What was the statement that Smiser had signed?—A. Stated about the qualifications of an Indian, severing his tribal relations and living apart, and adopting the habits of white men—that was the statement that Reagan read to us.

Q. That was signed by Smiser?—A. Yes, sir.

Q. Smiser is the United States attorney for this division?—A. Yes, sir.

By Mr. HELLENTHAL:

Q. That paper, Mr. McCormick, also was sent in with the returns, was it?—A. Yes; that was sent in.

Q. And the Indians that voted all took an affidavit that they had severed their tribal relations and adopted the habits of civilized life?—A. You asked me what papers were sent in with the returns—this one that he left?

C. Yes, that was sent in with the others; wasn't it?—A. No.

C. That wasn't sent in?—A. No.

C. The one that was sent in was the affidavit?—A. Yes; we sent that in.

C. That one that Smiser signed was a mere legal opinion in which he told you which Indians could vote and which could not, is that not the situation?—A. That is right.

C. And in that statement it was stated that if an Indian had severed his tribal relations and adopted the habits of civilized life he could vote, or words to that effect?—A. If they signed that paper.

C. Providing he signed an affidavit to that effect?—A. Yes.

Q. And these Indians' votes were not challenged by anyone?—A. One of them was.

C. One of them was; the others were not?—A. Harris' was challenged.

Q. Oh, yes; Mr. Wilson challenged that. Harris' vote was challenged, but the others were not?—A. Yes.

Q. They all subscribed their names to the affidavits?—A. Yes, sir.

C. They could all write their names?—A. Oh, yes.

C. Who read the affidavits to them, do you remember?—A. No; they had the affidavit in their own possession.

Q. Now, the Indian town in Douglas is scattered along on the beach for quite a long distance, is it not?—A. Yes, sir.

C. That is to say, most of the Indians live on the beach?—A. Yes.

Q. The Indians fish for a living a good share of the time, do they not?—A. Well, I guess some of them do during the summer; the majority of them work in the mine. I guess in the summer time most of them go out fishing.

Q. And for that reason most of the Indians around Alaska live on the beach, do they not?—A. I do not know their reasons for living there—they live there.

C. They live on the beach at Juneau?—A. Yes, sir.

C. And elsewhere, as far as you know?—A. Yes, sir.

C. Live near the water?—A. Yes, sir.

C. And the same is true at Douglas Island?—A. Yes, sir.

Q. And while it is true that the Indians live there, there are white men living here and there amongst them.—A. Yes.

Q. I think you said the white men that lived on the beach were mostly all single men or white men who married squaws?—A. I said there was many single men among them and some that we know were living with squaws.

Q. Did you say there were no white men in that locality?—A. No, I didn't say there were none. I think there are a couple of parties running a store—I think they have their families with them.

Q. What you mean to say is that the white families as a rule live up on the hill, farther away from the water?—A. Yes, sir.

Q. But that there are some white people who do not live there?—A. Yes, sir.

Q. Who live scattered along in other places?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. RUSTGARD:

Q. This white family living there, who are they?—A. Michael George is running a store along there, and he has his wife there; and George Myers is another, I believe, running a store.

Q. Trading with those Indians?—A. Yes.

Q. Who are they? Two of the Greeks over there, or Syrians?—A. Greeks or Syrians, I believe.

Mr. RUSTGARD. That is all.

(Witness excused.)

Mr. RUSTGARD. Will you waive the signing of these depositions?

Mr. HELLENTHAL. That is all right—I will waive the signing of these depositions.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witnesses, John W. Wilson and Richard McCormick, having first been duly sworn to testify to the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations, did testify as set forth in the foregoing depositions; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction; and that pursuant to a stipulation between the attorneys for the parties hereto said depositions were not read nor signed by said witnesses.

In witness whereof I have hereunto set my hand and official seal this 4th day of September, 1919.

[SEAL.]

G. C. WINN.

*Notary Public for Alaska.*

My commission expires July 22, 1921.

*To the above-named contestee and his attorneys, J. A. Helleenthal and John R. Winn:*

Take notice, that before Grover C. Winn, a notary public, on Saturday the 23d day of August, 1919, at 2 o'clock p. m. of that day, the contestant James Wickersham will take the deposition of George Doyle, a resident of Juneau, Alaska, as witness for contestant, at the office of the United States marshal at the courthouse in Juneau, Alaska.

Dated this 22d day of August, 1919.

JAMES WICKERSHAM, *Contestant,*  
By JOHN RUSTGARD,  
*Attorney for Contestant.*

Copy of the above notice received at Juneau, Alaska, this 22d day of August, 1919.

JNO. R. WINN.

DEPOSITION OF GEORGE E. DOYLE.

AUGUST 28, 1919—2 P. M.

GEORGE E. DOYLE, introduced as a witness on behalf of the contestant, being by the notary public first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. What is your full name?—A. George E. Doyle.

Q. Did you ever serve in the United States Army?—A. Yes, sir.

Q. What time?—Well, I have been in the service for about nine years.

Q. Where did you enlist?—A. I reenlisted at Fort Lawton, Wash.

Q. Fort Lawton, Wash.?—A. Yes, sir.

Q. At what time?—A. January 15, 1915.

Q. In what company and regiment did you serve last?—A. The last company I served in was the Thirtieth Battalion, United States Guards.

Q. Thirtieth Battalion, United States Guards?—A. Yes, sir; stationed at Fort Seward, Alaska.

Q. When were you sent to Fort Seward?—A. August 18, I landed here, 1915.

Q. You were sent from Fort Lawton?—A. Yes, sir; I was in the Quartermaster Corps then.

Q. How long did you serve in the Army—that is, when did you quit?—A. Well, I was a soldier up until—I ain't got my discharge yet. I will get my discharge when I get out of here.

Q. Were you in the United States Army as an enlisted man at Fort Seward, near Haines, in this division of Alaska, on the 5th of last November?—A. I was, sir.

Q. That fort is close to the town of Haines?—A. It is a quarter of a mile from Haines.

Q. Did you and any of the other soldiers vote at the general election held at Haines?—A. I did, sir.

Q. On the 5th of last November?—A. Yes, sir.

Q. Do you know of any of the other enlisted men aside from yourself who voted at that time, referring only to those who had enlisted outside of Alaska?

Judge WINN. Don't give the names—answer that yes or no.

A. Yes, sir; I do.

Q. Will you give those names now?

Judge WINN. I object to it as not the best evidence. It is secondary evidence, and the records of the election, etc., is the best evidence to show who voted and who did not vote.

Q. You may answer.—A. As near as I can recollect there was Sidney Gross.

Q. Sidney Gross?—A. Yes, sir.

Q. Do you know where he enlisted?—A. No, sir; I don't; he was sent up from San Francisco, I believe.

Q. Do you recall approximately what time he was sent up from San Francisco?—A. About 1917; about the first part of the year; about the first part of 1917; I don't exactly know what month.

Q. He was in the Army as an enlisted man at the time he came up there?—A. Yes, sir; in the Quartermaster Corps.

Q. Who else do you remember?

Judge WINN. Same objection—not the best evidence.

A. Wilson, but I don't know his first name.

Q. Do you know where he came from?—A. No; I couldn't say exactly where he come from, but he was sent up from the States to C Company.

Q. Do you recall approximately what time that was?—A. 1916.

Q. Will you state the circumstances under which you and those other two soldiers that you referred to happened to go to the polls and vote at Haines on the 5th of last November?—A. Well, we all were playing pool in the company quarters and an argument came up as to who was going to vote, so I was asked personally if I was going to vote.

Q. Who asked you?—A. Mr. Coombs.

Q. Mr. Coombs?—A. Yes, sir; the marshal.

Q. That is the deputy United States marshal stationed at Haines?—A. Yes, sir.

Q. Well, what did he say to you, if anything, about that?

Mr. HELLENTHAL. I object to that as immaterial and not binding upon Mr. Grigsby.

A. I told him it didn't particularly make any difference to me; I being a soldier I didn't think I could vote, and he said yes; that there was a law passed that we could.

Mr. HELLENTHAL. This is all objected to as being immaterial and incompetent.

The WITNESS (continuing). So a bunch of us went over to Haines in Mr. Coombs's machine that he had there to take the men over from the post over to Haines—he had two of them; he had the truck and his own personal machine.

Q. That is, Coombs went in a machine?—A. Yes, sir.



Q. You mean an automobile?—A. Yes, sir.

Q. How many men did Coombs then take from the fort over to Haines to vote?—A. All the automobile could hold—we had a six-passenger Buick.

Q. And you and the other two soldiers you have mentioned were with him in that auto?—A. Yes, sir; they were with him in that auto.

Q. Did he at that time say anything to you or to the other men with you as to whom you ought to vote for?

Mr. HELLENTHAL. I object to that as immaterial, irrelevant, and incompetent.

A. He said that we ought to vote for Mr. Sulzer.

Q. When you came to Haines did he buy you a cigar, or anything like that?—A. No, sir; I bought the round of drinks and cigars myself.

Q. Did Mr. Coombs, the deputy marshal, buy anything for the boys?

Mr. HELLENTHAL. We object to that as immaterial.

A. No, sir.

Q. Who did you vote for?—A. I voted for Mr. Sulzer.

Q. Did you have any talk with the other two boys you mentioned as to who they voted for?

Mr. HELLENTHAL. I object to that as immaterial.

A. No, sir; I did not.

Q. Did they make any statement to you as to who they voted for?

Mr. HELLENTHAL. I object to that as immaterial.

A. No, sir; but I just got from the run of the conversation that they voted for Mr. Sulzer.

Mr. HELLENTHAL. You say they made no statement to you?

A. Not to me personally; no, sir.

By Mr. RUSTGARD:

Q. When you say that you gathered from the run of the conversation that they voted for Sulzer, will you explain fully what you mean by that? What was the conversation?

Mr. HELLENTHAL. We object to that as immaterial and not the best evidence, hearsay, not binding upon Mr. Grigsby, irrelevant and incompetent.

A. Well, we was all in drinking, is all I can say, in Mr. Bersford's place there playing pool, and I heard some fellows talking, I don't know just who they were——

Q. All the talk was for Sulzer?—A. Yes, sir.

Q. Had Sulzer been to the fort and made a speech to you soldiers?

Mr. HELLENTHAL. I object to that as immaterial.

A. After the vote contest came off. It was about a week after we voted that he came up there.

Q. You say Sulzer was there about a week after the vote came off?—A. Yes, sir; approximately a week—I wouldn't say how long, but it was approximately about a week.

Q. Do you remember whether he was over at the fort or at Haines' talking to you soldiers before the election?—A. No, sir; he wasn't in Haines' until he came up on the *Estebeth* on a Tuesday night.

Q. Tuesday night of the election?—A. No, sir.

Q. After the election?—A. Yes, sir; when he come up.

Q. And Judge Wickersham you had never seen?—A. No, sir; I never seen him.

Mr. RUSTGARD. That is all. You may cross-examine.

Cross-examination by Mr. HELLENTHAL.

Q. You say you don't know where these other two soldiers enlisted that you have mentioned, Wilson and Gross?—A. I don't quite understand.

Q. You don't know where Wilson and Gross enlisted?—A. No, sir; I don't know where they enlisted.

Q. You don't know what country they were residents of at the time of their enlistment?—A. No, sir; I don't.

Q. When did you come to Alaska the first time?—A. The first time I came to Alaska was in 1908, the year that the Navy made a trip up here—I was up here that year.

Q. What did you come here for at that time?—A. I was in the Navy, sir.

Q. Where did you enlist the first time?—A. I first enlisted in the Army at Jefferson Barracks, Mo.

Q. Where were you living at the time you enlisted at Jefferson Barracks?—A. Why, at the time I was in Parsons, Kana.

Q. Had you been to Alaska before that time?—A. No, sir; not until the year that the fleet came up here.

Q. What was the next time you reenlisted?—A. The next time I reenlisted was in 1915.

Q. Where was that?—A. That was in the Army, at Fort Lawton.

Q. That was after you had been in Alaska for a year or two?—A. Sir?

Q. You had been in Alaska prior to that for a year or two?—A. No, sir; I hadn't been to Alaska but one trip, was all.

Q. You had not been to Alaska before?—A. No, sir; not to stay.

Q. You had been to Alaska, had you not?—A. Yes, sir; I forget the name of the boat I was on, but one of the destroyers.

Q. You belonged to the Regular Army?—A. Yes, sir; I did.

Q. How did you happen to be up at Fort Seward?—A. Why, I was transferred from the Quartermaster Corps owing to the shortage of a teamster at Fort Seward—I was transferred from Fort Lawton to replace this teamster.

Q. You have been in Alaska since what year?—A. I was transferred up here in 1915—August 18.

Q. Now, you had been a violent Wickersham supporter up to the time of election, had you not?—A. I had not given either party serious thought.

Q. You were, however, advocating the election of Wickersham, is that not true?—A. I wasn't advocating either one.

Q. Do you know Dr. Freeburger?—A. Yes, sir; I know Dr. Freeburger well—soldiered with him.

Q. You know Mr. Prentiss, don't you?—A. Billy Prentiss?

Q. Yes.—A. Yes, sir.

Q. You knew those men before election day, didn't you?—A. Yes, sir; I instructed both of them up there.

Q. And you advocated the election of Wickersham to them, didn't you, before election day?—A. I don't remember that I did.

Q. You wouldn't say that you did not, would you?—A. I wouldn't say that I didn't or I wouldn't say that I did, because I never gave the election a serious thought. I may at some time have said something offhand.

Q. That Wickersham ought to be elected?—A. Well, I don't just recall what I did say. The strong talk in the company among the fishermen, they were all for Wickersham—the company consisted of mostly fishermen, and they were all for Wickersham.

Q. And that naturally made you lean toward Wickersham?—A. Yes, sir; naturally would—soldiered with them.

Q. And that made you advocate the election of Wickersham as against Mr. Sulzer, is that right?—A. No, sir; that didn't exactly turn me against Mr. Sulzer. What turned me against Mr. Sulzer was his own speech.

Q. His own speech?—A. Yes, sir.

Q. That was a week after election?—A. Yes, sir; approximately a week.

Q. You told Dr. Freeburger and Mr. Prentiss that Wickersham should be elected long before that, didn't you?—A. No, sir; not that I know of.

Q. Didn't you tell those gentlemen before election—discuss politics with them, cuss Mr. Sulzer and praise Wickersham?—A. No, sir; I didn't; not to my knowledge.

Q. Not to your knowledge?—A. No, sir.

Q. If you did that it was something you have forgotten about. Now, isn't it a fact that you voted for Wickersham?—A. No, sir.

Q. It is not a fact?—A. No, sir.

Q. You didn't vote your sentiments, then?—A. No, sir.

Q. You are at present serving a term in the Juneau jail?—A. Yes, sir.

Q. What are you in here for?

Mr. RUSTGARD. I object to that as immaterial and irrelevant. The records are the best evidence.

The WITNESS. I consider that to my own benefit.

Q. Do you refuse to state what you are in jail for at the present time?—A. Well, I am here for trying to—not telling what I know.

Q. You are in here because you tried to conceal the truth?—A. Well, in a way, yes; if you look at it that way.

Q. You are not in here for telling something that wasn't true?—A. Not that I know of, sir.

Q. Now, I want you to state fully just what the charges against you were that landed you in the Juneau jail.

Mr. RUSTGARD. I object to that as not the best evidence.

A. I forget what charges I was under now. It was accepting stolen property, having stolen property in my possession, whatever that comes under—I don't know what charge it comes under.

Q. How did you come to be a witness here?—A. Why, I was called upon the other day by Mr. Rustgard.

Q. Did you send for Mr. Rustgard?—A. No, sir; I did not.

Q. Did you talk to anybody and tell them to send Mr. Rustgard to you?—A. No, sir; I did not.

Q. You never told anybody that you knew anything about this case and would be able to testify to something for Wickersham?—A. No, sir; I did not.

Q. Mr. Rustgard just called upon you without anyone directing him to do so?—A. As far as I know, sir; yes, sir.

Q. You never told any one that you knew anything about this case at all?—A. No, sir; I did not—only Mr. Rustgard the day he called on me.

Q. The only man you ever talked to about this whole situation—A. Yes, sir.

Q. Was Mr. Rustgard on the day that he talked to you in jail?—A. Yes, sir.

Q. Is that right?—A. Yes, sir.

Mr. HELLENTHAL. That will be all.

Redirect-examination by Mr. RUSTGARD:

Q. You have referred to some discussion as to the candidates for Delegate from Alaska at the last election. Let me ask you whether or not there was any discussion on that subject of any consequence until after Sulzer had made his speech?

Mr. HELLENTHAL. We object to that as leading and immaterial.

A. Among the men, you mean, sir?

Q. Yes.—A. Well, there was, off and on, talking about it in the company.

Q. But did the discussion increase after Sulzer had been there?—A. I never paid no attention to it to amount to anything—I just let it drop as it was.

Q. You never took any particular interest in politics?—A. No, sir; I never took no interest in politics because I was always with the Government, and the time I was in the service we wasn't allowed to vote, so therefore I never give it a serious thought of no kind.

Q. This is the first time you ever voted?—A. The first time I ever voted, sir.

Q. And you didn't know you had a right to vote until the deputy marshal told you?—A. Until I was told so. I hadn't seen no orders to that effect come out of the service, and I didn't know about it at all.

Mr. RUSTGARD. That is all.

(Witness excused.)

GEORGE E. DOYLE.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss.*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 28th day of August, 1919, the foregoing witness, George E. Doyle, having been first duly sworn to testify to the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations, did testify as set forth in the foregoing deposition; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness, he swore to the same and signed his name thereto.

In witness whereof, I have hereunto set my hand and official seal this 5th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

*To the above-named contestee and his agents and attorneys, J. A. Hellenthal and John R. Winn, Esqs.:*

Take notice, that before G. C. Winn, a notary public for the Territory of Alaska, at his office in the Valentine Building, in the town of Juneau in said territory on Friday, September 5, 1919, at 2 o'clock p. m., I will take the testi-

mony of the following-named witnesses, to wit: John Rustgard, John B. Marshall, and Harry Willard; and you will further take notice that the taking of said depositions will be continued from time to time until completed.

JAMES WICKERSHAM, *Contestant*,  
By JOHN B. MARSHALL, *Attorney*.

Service of a copy of the foregoing notice is admitted this 4th day of September, 1919.

JNO. R. WINN,  
*Attorney for Contestee*.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard, and J. B. Marshall on behalf of contestant, and J. A. Hellenenthal and John R. Winn, on behalf of contestee.

Notice having been duly given for the taking of the depositions of John Rustgard and J. B. Marshall on behalf of contestant, before the above-named officer, on Friday, September 5, 1919, at 4 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF JOHN RUSTGARD.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss.*

JOHN RUSTGARD, being first duly sworn, testified as follows:

I wish to state that as attorney for the contestant, James Wickersham, I endeavored to secure the transmission to the House of Representatives as evidence in this contest, the minutes of the proceedings of the canvassing board, which were referred to by counsel in his objection to the testimony of Mr. J. B. Marshall recently given. To that end I served notice of the taking of the deposition of Mr. Martin George, since the death of Charles E. Davidson, the individual in charge of the office of surveyor general of Alaska, and also in charge of the office of the Secretary of Alaska. As such, Mr. Martin George had charge of the minutes of the canvassing board.

Mr. HELLENTHAL. We object to what Mr. Martin George's official capacity was or what his official duties are; we object to this witness testifying as to what Mr. Martin George's official capacity and duties are, on the ground that it is not the best evidence and on the further ground that if Mr. Martin George has any legal duties defined by law, then the law itself has prescribed those duties.

Mr. RUSTGARD (continuing). The deposition of Mr. Martin George was taken and at that time I offered in evidence the minutes of the canvassing board, in the possession of Martin George, as the only party in charge of the office of the secretary of the Territory of Alaska. Those minutes to the best of my recollection contain some 250 or 300 typewritten pages, being in the form of transcripts of the minutes or notes of the stenographer of the Governor of Alaska. These minutes were marked as "Exhibit 1" or "Exhibit A" by the notary, Mr. Grover Winn, to be attached to the deposition of Martin George when the transcript was prepared. To-day I find that Martin George refused to attach these minutes to his deposition and refused to let them go out of the office, and he informed me this afternoon that the present Attorney General, Mr. Jerry Murphy, an appointee of Governor Riggs, instructed him not to permit the minutes to leave the office of the Secretary of Alaska. I deem those minutes of importance and believe they should be transmitted to the House of Representatives as evidence for the contestant in this case.

I further wish to testify that I have endeavored to secure the attendance of Mr. Selmer Jacobson and Mrs. Selmer Jacobson as witnesses for contestant in this case. They are residents of Juneau and the same parties referred to by Mr. J. R. McNeill and Mr. H. J. Raymond, respectively, in their respective deposition. I served a subpoena on Mrs. Jacobson at her home in this city on Friday, the 29th of August, the subpoena being duly issued and made returnable on September 3, at 4 o'clock p. m., before Grover C. Winn, as notary public. I left a copy of the subpoena with Mrs. Jacobson at her home in this city, together with the witness fee of 75 cents, which she accepted.

I made several efforts to find Mr. Jacobson and on all occasions missed him and finally left a subpoena for him with his wife at his residence in this city, together with the witness fee of 75 cents, which she agreed to deliver to Mr.

Jacobson, her husband. Mrs. Jacobson agreed to come and testify in the case on the 30th of August, 1919, at 4 o'clock in the afternoon instead of waiting until the 3d of September, the date fixed in the subpoena, as I was endeavoring to close the evidence to be taken in Juneau at that time, and she also agreed to see that Jacobson came here at the same time. Neither of these witnesses appeared, and the attorneys for contestee being here and waiting, I went over to Jacobson's residence and found that Mrs. Jacobson was at home, and was informed by her that Mr. Jacobson had gone to my office. I failed to find him, and came back to the office of the notary before whom the depositions were to be taken and informed the attorneys for contestee of the facts, and it was then agreed that we should make an offer to take a deposition of the Jacobsons either before or on the date when the subpoena was returnable. I made another effort to find Mr. Jacobson, but failed, and called upon Mrs. Jacobson, who said she would be sure to be here on the 3d of September, the date set for her appearance in the subpoena. So far neither of them has responded to the subpoena, and I know of no other means by which to compel their attendance. I can state that Mrs. Jacobson informed me that she and her husband voted at Warm Springs, Bay—

Mr. HELLENTHAL (interrupting). We object to any statements as to what these witnesses informed counsel, as the only method of proving facts to which the statement evidently refers would be by producing the witnesses in order that they may be cross-examined.

Mr. RUSTGARD (continuing). The same being known of record as Baranoff precinct, on the 5th of last November, and that they both voted for Sulzer, and that they were both residents of Juneau at that time.

JOHN RUSTGARD.

Subscribed and sworn to before me this 5th day of September, 1919.

[SEAL.]

G. C. WINN.

*Notary Public for Alaska.*

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 5th day of September, 1919, the foregoing witness, John Rustgard, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his deposition herein, did testify as set forth in the foregoing deposition; that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 5th day of September, 1919.

[SEAL.]

G. C. WINN.

*Notary Public for Alaska.*

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq.; John Rustgard and J. B. Marshall on behalf of contestant; and J. A. Helleenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on Harry Willard for the taking of his deposition on behalf of contestant, before the above-named officer, on Friday, September 5, 1919, at 4 o'clock p. m., the following proceedings were had, to wit:

#### DEPOSITION OF HARRY WILLARD.

HARRY WILLARD, being first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL.

Q. What is your name, please?—A. Harry Willard.

Q. How long have you lived in Juneau?—A. Ever since I was born.

Q. How long ago was that?—A. Thirty-nine years now, this year.

Q. You have been for a long time, then, a resident of what is known as Auk Village?—A. Yes; Auk Village.

Q. Where the great majority of the native people live?—A. Yes.



Q. Are you acquainted with most of the native people who live down there?—A. Yes, sir.

Q. I want to read over to you this list of names. Then after I read it I will ask you a question. The list of names is: George Martin, Albert Samuels, Herbert Martin, Billy Martin, Tilly Martin, Pete Smith, Frank Peters, Willie Peters, Francis Joseph, Charlie Gray, George Howard, Jack Gamble, Charlie Bobb, Jimmie Hanson, George Gamble, Charlie Peters, James Miller, Jacob Harris, John Harris, Harry Anderson, Charlie Gamble. Now do you know all of those people?—A. Yes, sir.

Q. Are they all native residents of Alaska?—A. All natives.

Q. Do they all live in the native village known as Auk Village?—A. Yes, sir.

Q. Were you at one time stationed down at Klawock, another native village?—A. Yes, sir. I done mission work down there.

Q. Are you pretty well acquainted with the native people residing down there?—A. Yes, sir.

Q. I will read you another list of names: George Demmert, William Stewart, R. J. Peratovich, J. K. Williams, Thaddous Isaacs, L. P. Wilson, Jack J. Pertovich, Tecumpsa Collins, Charles W. Demmert, Sam Gunyah, Sam Davis, Lee Anniesket, Maxfield Dettin, Johnnie W. Anniskett, Clyde Fields, Arthur James, John Wilson, Frank Williams, R. D. Collins, and Peter Anniesket. Do you know all those people?—A. Yes, sir.

Q. Do you know where they live?—A. Yes, sir.

Q. Where?—A. Right in Klawock.

Q. In the town of Klawock, on the Indian reservation?—A. On the Indian reservation.

Judge WINN (interrupting). I want to get an objection there, on this part of the question about it being an Indian reservation not being the best evidence.

Mr. MARSHALL to Judge WINN. I think we have got the executive order in. We put it in down in Ketchikan.

Mr. MARSHALL. That is all I have to ask him, I think.

Cross-examination by Mr. HELLENTHAL:

Q. Did you say Johnnie Harris lived in the Indian reservation, too?—A. On town side.

Q. He lives in the Indian village?—A. In Indian village, on town side.

Q. On the town side of the Indian village?—A. Yes; on town side.

Q. Johnnie Harris is a son of Richard Harris?—A. I think that name is not Johnnie Harris. It is a half-breed boy he is talking about. Jacob Harris and John Harris is two brothers.

Q. You know Dick Harris, don't you?—A. Yes, sir.

Q. They are sons of Dick Harris, aren't they?—A. Yes, sir.

Q. Dick Harris is the man that first discovered gold in Alaska, isn't he?—A. Yes, sir.

Q. He is a white man?—A. Yes, sir. Married to a native.

Q. Married to a native?—A. Yes.

Q. Where is that house of John Harris's?—A. I think he has two houses. One of them is right below the court and one is right on this side of Morris's store.

Q. One of them right below the courthouse?—A. Yes.

Q. That is part of the Indian village?—A. But I mean the other one is right on the side of Morris's store—the Indian side.

Q. Anyway, this boy is a son of Dick Harris?—A. Dick Harris was his father.

Q. Dick Harris was also the father of the other Harris boy that you testified to?—A. No.

Q. What is the other Harris boy's name?—A. You are talking about this half-breed boy of Dick Harris's. Jacob Harris is a full-blood Indian. And John Harris is. They are two brothers. You are talking about John Harris and Dick Harris.

Mr. MARSHALL (interrupting). They are sons of Dick Harris?—A. Yes, sir.

Q. But the two Harris boys you named—John and Jacob Harris?—A. Full-blooded Indians.

Q. Not the sons of Dick Harris?—A. No.

Q. Full-blooded Indians?—A. Yes.

Mr. HELLENTHAL. That fellow Demmert you testified to at Klawock. He is the man who has the store there?

A. Yes.

Q. He has a store down there?—A. Well, Demmert has no store. I don't know that Demmert has a store down there. Bob Peratovich has a store down there. He is a half-breed and has a store there. But George Demmert has no store there. They had a home up at Shakan. They moved down there. They have been staying with their father. I left there in 1906, in June. The first year that I was down there was 1896, one year. The second time I went down it was 1901; I returned to Juneau again. In the same spring, 1902, I went down there and I took up mission work and I spent my time there all that year up until 1906, and in the spring I left there.

Q. Did you ever see that nice new home of George Demmert?—A. No, sir. They may have had a home after I left. They used to stay with their father, all in one house.

Judge WINN. You are a full-blooded Indian?

A. Yes, sir; I am.

Mr. HELLENTHAL. Have you adopted the habits of civilized life?

A. Yes, sir.

Q. You are not a savage, then?—A. No.

Mr. MARSHALL. I object to that question. He is not here testifying on that question. It is not cross-examination. It has no relation to the thing under investigation.

Mr. HELLENTHAL. You lived in the Indian village?

A. Yes, sir.

Q. You are a civilized man, aren't you?—A. I am trying to be.

Q. You have no chief?—A. No, sir.

Q. They have no chief in the Auk village, have they?—A. Some of them are under the chief yet, but I am not. I left my custom about two years ago now, and I am not under the chief.

Q. Did you vote?—A. Yes.

Q. You voted for Wickersham?

Mr. RUSTGARD. Same objection.

A. Sure; it is my duty to.

Mr. MARSHALL. You have the evidence of citizenship authorized by the bill introduced in Congress and took your examination, did you not?

A. Yes, sir.

Judge WINN (interrupting). Object to it as not the best evidence.

Mr. Helleenthal and Mr. Winn waived signing of deposition by Mr. Willard.

UNITED STATES OF AMERICA, *Territory of Alaska*, ss.

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 5th day of September, 1919, the foregoing witness, Harry Willard, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in type-written form under his direction, and that after taking of said deposition Mr. Helleenthal and Judge Winn, appearing in behalf of contestee, waived signing of the deposition by Mr. Willard.

In witness whereof, I have hereunto set my hand and official seal this 5th day of September, 1918.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

#### DEPOSITION OF J. B. MARSHALL.

UNITED STATES OF AMERICA, *Territory of Alaska*, ss.

J. B. MARSHALL, being first duly sworn, testified as follows: I want first to introduce in evidence a copy of the paper prepared in United States attorney's office and circulated among the Indians on the beach at Douglas and in Juneau, which consisted of, first, an affidavit by which such Indians were expected to establish their rights of citizenship and that his——

Judge WINN (interrupting). We object to anything the paper contains except for the mere purpose of identifying it.

Mr. MARSHALL (continuing). Followed by a statement addressed to the judges of election and signed by Mr. Smiser——

Judge WINN (interrupting). We object to Mr. Marshall testifying as to what the paper contains. If he is going to offer the paper, it will be the best evidence and we want to reserve the objection until he offers it.

Mr. MARSHALL. I will proceed. In this certificate appended to the paper by Mr. Smiser he states, among other things: "It is my opinion that any Indian who makes the above affidavit is prima facie entitled to vote." I will offer this copy in evidence and ask that it be marked "Exhibit No. 1" to my deposition and will state that an original, signed by Mr. Smiser, was transmitted to the Clerk of the House of Representatives and is a part of the record there.

Mr. HELLENTHAL. I object to this copy, not being authenticated. Furthermore, that there is no evidence that this particular paper or the original of this paper was ever circulated.

Judge WINN. Nor has any foundation been laid for the introduction of the paper and it is not the best evidence.

Mr. MARSHALL (continuing). I next wish to state that along last March, when it became apparent that this contest would come up, or would likely come up, I took the affidavits of various natives who resided on the beach at Douglas, and who voted.

Judge WINN (interrupting). Mr. Rustgard, an attorney at law and one of the attorneys of the contestant in this case, is present; Mr. Marshall is a lawyer and is testifying, and we demand that Mr. Rustgard interrogate Mr. Marshall so that we can make the proper objections to Mr. Marshall's testimony. We are objecting to Mr. Marshall's stating who voted and who did not vote; it is not the best evidence; and we object to his making any statement what any affidavits he may have in his possession may contain and we insist that Mr. Rustgard question the witness so that we may make any objections.

Mr. RUSTGARD. Well, judge, if we see fit to take the testimony in this manner, you can make any objections you want to after the statements are made.

Mr. HELLENTHAL. I wish to let the records show that I object to any testimony of Mr. Marshall with reference to any affidavit he may have taken at any time touching any matter in dispute here, for the reason that his conduct in that regard would be immaterial and the affidavits would be incompetent. It is incumbent upon him to bring the witnesses, it being the desire of the council for the contestee to cross-examine the witnesses.

Mr. MARSHALL. I will proceed with my statement that I talked with these various native people living on the beach at Douglas, their names being John Willis, Daniel Joseph, Gilbert Jackson, William Brady, Jimmy Fox, and Edward Marshall. The original affidavits were transmitted to the Clerk of the House of Representatives, but I offer these copies and ask that they be marked as "Exhibit 2" to my deposition. I will state that—

Mr. HELLENTHAL (interrupting). We object to the offer as made for the reason that the affidavits are immaterial, incompetent, hearsay, not the best evidence, and for the further reason that if the contestant desires to prove the facts stated in the affidavits, it is incumbent upon him to produce the witnesses in order that they may be cross-examined.

Mr. MARSHALL. I will further state that these natives are all fishermen and have been engaged in fishing for a number of weeks past. In fact, from prior to the time that the resolution passed Congress authorizing this contest, and that they have been and so far as I know still are scattered at various fishing camps in southeastern Alaska, and that so far as I know it is not possible and it is certainly not practicable to get them here and take their depositions within the time allotted to the contestant to take his testimony. I further wish to state that in the latter part of March and during part of April I also took affidavits of certain natives residing in the native village known as Ank Village, in Juneau. The names of these natives are: Willie Peters, Charley Gray, George Martin, Billy Martin, and Charley Peters. That these natives likewise are not in Juneau and that so far as I am informed they are scattered throughout southeastern Alaska fishing and that it is impossible in all probability and certainly impracticable to take their testimony. I therefore offer copies of their affidavits and ask that it be marked "Exhibit 3" to my deposition.

Mr. HELLENTHAL (interrupting). I object to the offer made on the ground that the copies are not the best evidence, no foundation made for the introduction of secondary evidence, that they are irrelevant, incompetent, hearsay, statements not binding upon the contestee, and that if the contestant de-

sires to prove the matters referred to in the affidavits it is incumbent upon him to produce the witnesses in order that they may be subjected to cross-examination.

Mr. MARSHALL (continuing). I will add to my statement in respect to these Juneau Indians that those affidavits were also transmitted to the Clerk of the House of Representatives, the originals. I also wish to state that it has been our intention and effort has been made to procure the attendance here of Mr. C. B. Ferguson, who has been a resident of Craig, Alaska, for 26 years. While I was recently at Ketchikan with Judge Wickersham, we wired to him and tried to get his attendance there, the schedule of the mail boat was such that he could not reach there before we were to leave. When I was in Wrangell, on the 25th of August, I wrote and tried to get Mr. Ferguson up here. I do not know what has prevented his coming. When I was in Craig, on the 18th of June, investigating this matter, I took his affidavit, the original of which was transmitted to the Clerk of the House of Representatives, and I now offer a copy of that original as "Exhibit 4" to my affidavit.

Mr. HELLENTHAL (interrupting). I object to the offer made on the grounds that it is irrelevant, incompetent, immaterial, it is not the best evidence, no foundation has been laid for the introduction of secondary evidence, it is hearsay and statements not binding upon the contestee, and if the contestant desires the testimony, it is incumbent upon him to produce the witness that he may be cross-examined, the contestee's council being desirous of cross-examining the witness.

Mr. MARSHALL (continuing). I wish further to state than on the 17th day of June of this year I was en route from Klawock to Craig, Alaska, in company, among other people, with Mr. C. S. Hibbs, who is the teacher of the native school at Klawock, or was, but who has since been appointed postmaster at Craig, and who as a teacher exercised a great deal of influence over the native Indians under his supervision, residing at Klawock. There are also references to Mr. Hibbs and his political activities contained in the record of the contest over the election of 1916 between Judge Wickersham and Mr. Sulzer. I engaged Mr. Hibbs in conversation—

Mr. HELLENTHAL. We object to this line of testimony as being immaterial and irrelevant and as relating to a conversation by which contestee is in no wise bound.

Mr. MARSHALL (continuing). And I told Mr. Hibbs that I was anxious to get information concerning the election in order that certain questions involved, particularly touching the native vote, might be submitted to Congress with information sufficient for Congress to act upon it when it had reached a conclusion. I asked Mr. Hibbs if he was not willing to expedite the final determination of this issue by telling me if he knew for whom the Indians voted and making an affidavit to that effect, and he refused to do it. He did, however, in response to some statement of mine, reply to me, "Of course, they [referring to the Klawock Indians] voted for Sulzer after the way Wickersham treated them and misrepresented them in the contest proceedings between Sulzer and Wickersham over 1916 election." I was not able, however, as stated, to get any written evidence of that fact from Mr. Hibbs.

I want to state one thing further, that is, that within my personal knowledge there is a native school provided for the Indians living on the beach at Douglas, conducted by some branch of the Federal Government, the Bureau of Education, I believe, and that the city of Douglas provides a separate and distinct school for the white children. I also want placed in the record a statement with regard to the canvassing of the election returns of the general election held on November 5, 1918, to the effect that there were—

Mr. HELLENTHAL (interrupting). We object to any testimony as to what occurred before the election board on the ground that the proceedings were all taken down, and a record of those proceedings is the best evidence of what occurred.

Mr. MARSHALL. I will continue right along. In the beginning of the canvass certain ballots appeared whereon the voters had indicated their choice by marking a cross to the right of the names of the men for whom they desired to vote, and certain others where apparently they had indicated their choice by striking out the names of all except those for whom they desired to vote. In any event, the canvassing board considered that the purpose of the voters under the two circumstances stated was clearly manifested, and they proceeded wherever ballots of that character had been rejected by the judges of election, to count

those ballots for the candidates for whom they had been cast. This method was pursued until possibly a little more than half of the returns had been canvassed, when it was apparent from records that had been kept that Judge Wickersham had gained by this procedure, I think he having made a net gain of 9 votes. It was apparent that the election would be very close and the Bristol Bay precincts had not yet been received, and the canvassing board raised the question as to the propriety of their counting ballots such as I have described, and determined to call upon George B. Grigsby, then the attorney general, for his opinion as to their right to count such ballots. The adjournment was taken for that purpose, and Mr. Grigsby in due course rendered an opinion, advising the board that they should not count such ballots, and the board thereupon determined to begin the canvassing anew, make out new ballot sheets and ignore the work already done, and this was done and through the remainder of the canvassing it appeared very clearly to my mind that Judge Wickersham would make further net gains if the ballots such as I have been discussing were all counted——

Mr. HELLENTHAL (interrupting). I move to strike out this voluntary statement of the witness as to what his opinion was upon matters not in the record.

Mr. MARSHALL (continuing). The attorney general, Mr. Grigsby, had given to the canvassing board during the progress of the election in 1916 an exactly contrary opinion——

Mr. HELLENTHAL (interrupting). I object to any testimony with reference to the opinion of the attorney general given at any time on the ground that it is not the best evidence, and on the further ground that it is immaterial as to what his opinion on the previous occasion might have been.

Mr. MARSHALL (continuing). And had advised the board to count ballots which had been voted by placing a cross on the right-hand side. I believe that is all.

Mr. RUSTGARD. And also had he given his opinion that it was the duty of the canvassing board to recount the ballots and establish the returns, irrespective of what was done by the judges of election?

Mr. MARSHALL. Yes, sir.

Mr. RUSTGARD. And after approximately two-thirds of the returns of the election of November 5, 1918, had been counted, pursuant to that opinion, as given, he filed with the board a new opinion, stating in substance and effect that they should accept the certificate of the results as issued by the judges of election——

Mr. HELLENTHAL (interrupting). Object to that as immaterial and incompetent.

Mr. MARSHALL. Yes, sir; that is true.

Mr. RUSTGARD. And it was pursuant to that last opinion that the canvassing board disregarded the original tally sheet and started over anew.

Mr. MARSHALL. It was.

Mr. RUSTGARD. Is there any cross-examination?

Mr. HELLENTHAL. None.

JOHN B. MARSHALL.

Subscribed and sworn to before me this 3d day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 5th day of September, 1919, the foregoing witness, J. B. Marshall, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his deposition and cross examination, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal, this 5th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.



UNITED STATES OF AMERICA,

*District of Alaska, Precinct of Douglas, ss:*

I, the undersigned, being first duly sworn, do on oath depose and say:

I am an Indian, born within the territorial limits of the United States; I have voluntarily taken up within said limits my residence, separate and apart from any tribe of Indians therein, and I have adopted the habits of civilized life; and I am a citizen of the United States, and entitled to all the rights, privileges, and immunities of such citizens; and I claim the right to vote at the election holden in the Territory of Alaska on November 5, 1918, for the election of a Delegate from said Alaska to the Congress of the United States, and other officers. I claim my citizenship rights under the provisions of the act of Congress of the United States, approved February 8, 1887, and claim the right to swear my vote in if challenged, as per section 401 of Compiled Laws of Alaska, at page 265, and ask the judges of election to read said section.

(Sig.) -----

Subscribed and sworn to before me, this 5th day of November, 1918.

*To the judges of election:*

I have been asked for an opinion as to the right of the Indians to vote. I will state that Indians who have severed their tribal relations, and live separate and apart from any tribe of Indians, and have adopted the habits of civilized life, are citizens of the United States and are entitled to vote the same as white citizens. This under the act of Congress approved February 8, 1887, section 6 thereof.

The Territorial act of 1915 is merely one form of prima facie evidence of the Indian's right to vote, and is not exclusive of other forms of proof. It is my opinion that any Indian who makes the above affidavit is prima facie entitled to vote.

(Signed)

JAMES A. SMISER,  
*United States Attorney.*

JUNEAU, November 5, 1918.

#### AFFIDAVIT OF JOHN WILLIS.

UNITED STATES OF AMERICA.

*Territory of Alaska, ss:*

John Willis, being first duly sworn, deposes and says: I am a native resident of the Territory of Alaska and live in the town of Douglas. On the 5th of November, 1918, at about 5 o'clock p. m., I was at the house of Gilbert Jackson, who had just come from the Alaska Juneau mine, on the opposite side of Gastineau Channel, where he had been at work all day. While I was in said house, in company with Gilbert Jackson and John Harris, Frank Desmond, a half-breed, came into the house, and he gave each of us a paper and told us that we were already citizens and had a right to vote; he said the paper came from the courthouse in Juneau, and we could sign it and vote. He also gave each of us a ballot or ticket that had the names of a lot of men on it, among which names were Wickersham and Sulzer; that on this ticket there was a cross in front of the names of Sulzer and some of the other names. When Gilbert Jackson asked Frank Desmond who we should vote for, he said vote for Sulzer, or vote for other people, whoever you like. Gilbert went over to Tom Hume's store and asked Tom Hume who we should vote for, and he said vote for all the names that have the cross in front of them, and we went up and voted and marked a cross in front of all the names that had a cross in front of them on this ticket or ballot. I don't know what was written on the paper I signed.

JOHN WILLIS.

Subscribed and sworn to before me this 4th day of March, 1919.

[SEAL.]

JOHN B. MARSHALL,  
*Notary Public for Alaska.*

My commission expires October 14, 1921.

## AFFIDAVIT OF DANIEL JOSEPH.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

Daniel Joseph, being first duly sworn, deposes and says: I am a native resident of southeastern Alaska, residing at the town of Douglas. I had never until November 5, 1918, voted at any election in the Territory of Alaska or in said town of Douglas; that during the fall of 1918, before the election, I received a letter from Mr. Charles A. Sulzer, in which he told me that he had done a great deal for the native people in southeastern Alaska, and promised that he would do many more things for them.

Sometime in the afternoon of November 5, 1918, I was cutting wood in front of my house when George Johnson, the deputy United States marshal at Douglas, came to me and said to me, "I think you can have a vote; all of the native people are going to have a vote in Douglas," and he asked me to go with him to see some of the natives. I went with him to the house of Jimmy Fox, and he showed Jimmy Fox one of the tickets or ballots, and he said to him you can vote for anyone you like, and Jimmy Fox said, "I had a letter from Sulzer," and he found the letter and showed it to George Johnson. He also gave me a paper to sign, and when I voted I signed it and left it with the election officers. I don't know what was on this paper. He said the paper came from the court and that it showed that I could go and vote. I also talked with Seward Kunz, and talked with him about who I should vote for, and he said he thought Sulzer was a good man to vote for.

DANIEL JOSEPH.

Subscribed and sworn to before me this 4th day of March, 1919.

[SEAL.]

JOHN B. MARSHALL,  
*Notary Public for Alaska.*

My commission expires October 14, 1921.

## AFFIDAVIT OF GILBERT JACKSON.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

Gilbert Jackson, being first duly sworn, deposes and says: I am a native resident of Alaska, of the age of 40 years, and am a fisherman and laborer. On the 5th day of November, 1918, while I was employed by the Alaska Juneau Gold Mining Co., at Juneau, Alaska, I quit my work on said day and took the ferryboat for Douglas, across the channel, where I live. After landing at the ferry float, I passed up the approach to the ferry, and when I came to Martin's store, Frank Bach, former deputy United States marshal and now the head guard at the Federal jail at Juneau, handed me what I learned was a form of party ballot for the election and asked me if I was not going to vote. I went on to my house, and there I found John Harris and John Willis, also natives. Very soon Frank Desmond, a half-breed, came into the room and handed each of us a typewritten paper and told us that it had been sent over from the United States attorney's office and that it showed that we had a right to vote. It was either one or the other of these men—John Harris or John Willis—who asked Frank Desmond who they should vote for, and he said "Vote for Sulzer," and they went on up to the place where the election was being held to vote. Before I went there I went into Young's store and talked with him about it, and he said the same thing, so I went up to the voting place and signed the paper Frank Desmond had given me, and I was given a ticket and went into the booth and marked a cross in front of all the names that had crosses in front of them on the ticket that Frank Bach had given me.

GILBERT JACKSON.

Subscribed and sworn to before me this 3d March, 1919.

[SEAL.]

JOHN B. MARSHALL,  
*Notary Public for Alaska.*

My commission expires October 14, 1921.

## AFFIDAVIT OF WILLIAM BRADY.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

William Brady, being first duly sworn, deposes and says: I am a native resident of Alaska, of the age of 21 years, residing in the town of Douglas, Alaska, I never voted in an election in Alaska until November 5, 1918, and on that day George Johnson, the deputy United States marshal at Douglas came to me at about 3 o'clock in the afternoon, and he gave me a paper and said that all of the natives had to vote this time, and that if I saw any other natives to send them to him, and I read the paper. About two hours later Frank Desmond came to me and he handed me one of the tickets with the list of names of the candidates on it. He did not say who I should vote for, but I had heard a good deal of talk about Sulzer's fish bill, and I decided I ought to vote for Wickersham; then I took this ticket along with me and went to where the election was held, and they gave me another ticket there, and I took it into the place and I marked it just like the one Frank Desmond gave me; that is, I put a cross in front of the same names.

WILLIAM BRADY.

Subscribed and sworn to before me this 4th day of March, 1919.

[SEAL.]

JOHN B. MARSHALL,  
*Notary Public for Alaska.*

My commission expires October 14, 1921.

## AFFIDAVIT OF JIMMY FOX.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

Jimmy Fox, being first duly sworn, deposes and says: I am a native resident of the Territory of Alaska. I never voted at an election in said Territory until November 5, 1918. On that date Frank Desmond came to me and gave me a piece of paper, and he said it was sent by the high judge to the native people in Douglas, and that it gave the native people the right to vote. I also saw George Johnson, the deputy United States marshal at Douglas, and he gave me a paper with a lot of names on it; some of these names had crosses in front of them. I went up to the voting place and signed the big paper from the high judge, and they gave me another paper like the one Johnson gave me, except it had some names on it without any crosses, and I took this paper in the place where they voted, and I put crosses in front of the names that had crosses in front of them on the paper that Johnson gave me.

Daniel Joseph and Edward Marshall and Frank Desmond were together when they came down to my place, and all of them, and also Henry Stephens, were talking about voting for Sulzer. But I voted for Wickersham. I heard he was the best man.

JIMMY FOX.

Subscribed and sworn to before me this 4th day of March, 1918.

[SEAL.]

JOHN B. MARSHALL,  
*Notary Public for Alaska.*

My commission expires October 14, 1921.

## AFFIDAVIT OF EDWARD MARSHALL.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

Edward Marshall, being first duly sworn, deposes and says: I am a native resident of the Territory of Alaska, and at the time of the last general election on November 5, 1918, I lived at Douglas, Alaska. On the day before the election I came over to Juneau and met Seward Kunz. He gave me a lot of tickets, or ballots, on which were printed the names of men who were running for office, and in front of some of the names there were crosses. He asked me to vote for Mr. Sulzer for Delegate to Congress, and told me not to vote for Mr. Wickersham, that he was no good. He also asked me to give these tickets out to the native people at Douglas, but I did not do that.

On the next day I saw Mr. Reagan, the United States attorney at Juneau. He came over to Douglas and went into Judge Henson's office. He was carrying a large envelope, and later on Frank Desmond came to me, and he had that large envelope or one just like it, and he took out of it a paper and gave it to me, which, he said, showed that I had a right to vote. Late in the afternoon I went to the voting place in the Natatorium Building, and there I voted, and I marked my ballot with crosses in front of the names, just as they were on the tickets that Seward Kunz gave me.

Frank Desmond gave out a good many of those papers to other native people in Douglas. I can read, and I read the paper over. When I made the cross in front of Sulzer's name I knew I was voting for Sulzer.

EDWARD MARSHALL.

Subscribed and sworn to before me this 4th March, 1919.

[SEAL.]

JOHN B. MARSHALL,  
Notary Public for Alaska.

My commission expires October 14, 1921.

AFFIDAVIT OF WILLIE PETERS.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

Willie Peters, being first duly sworn, deposes and says that on the day before election, to wit, November 4, 1918, Seward Kunz, who is also a native Alaskan, came to the house of Jimmie Hanson, who is my stepfather, and there he talked to me and my said stepfather about the election to be held on the next day; he told us that Charles A. Sulzer was a friend of the native people and that he had done many things for them and would do many more if he was elected, and he asked us to go to the polls on the following day and vote for the said Charles A. Sulzer. The said Seward Kunz gave me a sample ballot and a form of affidavit which had a certificate at the bottom signed by James A. Smiser, United States district attorney. Seward Kunz told my brother, Frank Peters, in my presence that the affidavit above mentioned gave us the right to vote. I went into the polling place and was given a ballot by the election judges, just like the one Seward Kunz gave me, except that in front of some of the names there were crosses, while in front of others there were not. I put crosses in front of the names on the ballot the judges gave me just as they were on the ballot Seward gave me, and I then brought my ballot out and the judges put it in the box, and one of them thanked me for voting.

(Signed) WILLIE PETERS.

Subscribed and sworn to before me this 22d March, 1919.

[SEAL.]

(Signed) JOHN B. MARSHALL,  
Notary Public for Alaska.

My commission expires October 14, 1921.

AFFIDAVIT OF CHARLIE GRAY.

TERRITORY OF ALASKA,  
*Juneau Precinct, ss:*

Charlie Gray, being first duly sworn, deposes and says: I am a native resident of the Territory of Alaska; prior to the general election held in said Territory on the 5th day of November, 1918, I had never voted at any election held in said Territory, and prior to said election I was approached by one Seward Kunz, also a native Alaskan, who asked me to vote and to cast my ballot for Charles A. Sulzer for the office of Delegate to Congress from Alaska; the said Seward Kunz gave me a paper, purporting to come from the office of the United States attorney, and which he said gave me the right to vote; he also gave me what I am advised is a party worker's ballot of the Democratic Party, on which the names of the Democratic candidates each have a cross in front of them, and asked me to procure my ballot from the judges of election and to place crosses in front of the same names thereon. I followed the directions of the said Seward Kunz as above stated, and at said election cast my ballot for the said Charles A. Sulzer.

That the said Kunz represented to me that the said Sulzer was a friend of the native people of Alaska, and that had done many things for them and

would do many more in the future; and for this reason he asked me to vote for the said Sulzer.

(Signed) CHAS. GRAY.

Subscribed and sworn to before me this 21st day of April, 1919.

[SEAL.]

JOHN B. MARSHALL,  
Notary Public for Alaska.

My commission expires October 14, 1921.

AFFIDAVIT OF GEORGE MARTIN, BILLY MARTIN, AND CHARLIE PETERS.

TERRITORY OF ALASKA,  
Juneau Precinct, ss:

George Martin, Billy Martin, and Charlie Peters, each being first duly sworn, severally depose and say: That prior to the 5th day of November, 1918, one Seward Kunz gave to each of them a ballot known as a party worker's ballot of the Democratic Party, a copy of which ballot has been displayed to them by the notary taking this affidavit, on which in front of certain of the names thereon appeared crosses, including the name of Charles A. Sulzer; that the said Kunz also gave to each of affiants a statement or paper, which the said Kunz stated was sent by the United States attorney, and which each of the affiants could sign and have the right to vote; that the said Kunz further stated that Charles A. Sulzer was a friend of the native people, and had done many things for them, and asked each of affiants to vote for the said Charles A. Sulzer; that in compliance with the request of the said Seward Kunz, each of the affiants went to the polling place known as Juneau No. 1 and were there given ballots, and that they marked the said ballots in accordance with the sample ballot above referred to and cast the same for the said Charles A. Sulzer as aforesaid; that none of us had ever voted at any election previously held.

(Signed) GEORGE MARTIN.  
(Signed) BILLY MARTIN.  
(Signed) CHARLIE PETERS.

Subscribed and sworn to before me this 21st day of April, 1919.

[SEAL.]

(Signed) JOHN B. MARSHALL,  
Notary Public for Alaska.

My commission expires October 14, 1921.

AFFIDAVIT OF C. B. FERGUSON.

UNITED STATES OF AMERICA,  
Territory of Alaska, ss:

C. B. Ferguson, being first duly sworn, deposes and says: That I am and for many years past have been a resident of the village of Craig, Alaska, in the Craig voting precinct, first judicial division; that I am acquainted with all of the native Indians living on the Klawock Indian Reservation and with many of the Indians living on the Haida Indian Reservation; that the town of Klawock is situated on the Klawock Indian Reservation, about 6 miles from the town of Craig, in the Craig voting precinct; that at the general election held in the Territory of Alaska on November 5, 1918, as appears from the register of voters, the following persons cast their ballots, among others, to wit: George Demmert, William Stewart, R. J. Peratovich, J. K. Williams, Thaddeus Isaacs, L. P. Wilson, Jack J. Peratovich, Tecumsha Collins, Charles W. Demmert, Sam Gunyah, Sam Davis, Lee Anniesket, Maxfield Datlin, Johnnie W. Anniesket, Clyde Fields, Arthur James, John Wilson, Frank Williams, R. D. Collins, and Peter Anniesket, which ballots were cast at the town of Craig, in the Craig voting precinct, and that each and every one of said persons is a resident of the said town of Klawock, on the said Klawock Indian Reservation, and none of said persons have taken up their residence separate and apart from the native residents of Alaska, living in said native town of Klawock.

That there also voted at the said town of Craig, in the Craig voting precinct, the following persons, to wit: Willie Skulka, John Skulka, Albert Natkong, Edwin Scott, and Frank Paul, all of whom are native Indian residents of



Alaska, residing on the Haida Indian Reservation, at the town of Hydaburg, which is in the Sulzer voting precinct, and that none of said last-named persons have taken up their residence separate and apart from the other native Indians in said town of Hydaburg.

That Charlie Brown also voted at the town of Craig, in the Craig voting precinct, and affiant is informed and verily believes that the said Charlie Brown is a native Indian resident of the village of Karheen, in the Territory of Alaska, situated in the Token voting precinct, and that the said Charlie Brown has not taken up his residence separate and apart from other native Indian residents.

That affiant knows that C. E. Hibbs, the principal of the Government School for Natives at Klawock, and one Bromley, the missionary of the Presbyterian Church at Klawock, were supporters of Charles A. Sulzer at the general elections held in 1916 and 1918; and affiant is informed and believes, from facts and circumstances within his knowledge and from his knowledge of the character and disposition of the natives of southeastern Alaska, resulting from a residence of 26 years in or near the village of Craig, Alaska, that said natives are likely to be greatly influenced in their views, especially with reference to the customs and government of white men, by those in authority over them, and affiant believes that the said Hibbs and the said Bromley were efficient and successful workers in their respective callings and were able to exercise influence over said natives.

I have personal knowledge of the political beliefs and sympathies of many of the white voters of the said Craig voting precinct who voted on the 5th day of November, 1918, and from my knowledge of the number of such persons who more or less openly advocated the candidacy of Judge Wickersham, I am convinced that practically all of the natives resident on the Klawock and Haida Indian Reservations must have cast their ballots for the said Charles A. Sulzer, as he could not otherwise have received the number of votes that he did at said election.

I also talked with a number of the Indians resident at Klawock for the purpose of learning their political sympathies, and from my conversations with them I found them without exception adherents of the said Charles A. Sulzer and hostile to the said James Wickersham.

C. B. FERGUSON.

Subscribed and sworn to before me this 18th June, 1919.

[SEAL.]

JOHN B. MARSHALL,  
Notary Public for Alaska.

My commission expires October 14, 1921.

*To the above-named contestee and his attorneys J. A. Hellenthal and John R. Winn:*

Take notice that before Grover C. Winn, a notary public, at his office in Juneau, Alaska, on Saturday, the 30th day of August, 1919, at 4 o'clock p. m. of that day, the contestant, James Wickersham, will take the depositions of H. J. Raymond, J. A. Snow, both residents of Juneau, Alaska, and of J. R. McNeill, whose actual residence is unknown but whose present place of abode is Juneau, Alaska, as witnesses for contestant in the above-entitled proceeding.

Dated August 25th, 1919.

JAMES WICKERSHAM, *Contestant*.  
By JOHN RUSTGARD,  
*Attorney for Contestant*.

Copy of the above notice received at Juneau, Alaska, this 25th day of August, 1919.

J. A. HELLENTHAL.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn, on behalf of contestee.

Notice having been duly given and process served on Joseph A. Snow, for the taking of his deposition on behalf of contestant before the above-named officer on Saturday, August 30, at 4 o'clock p. m., the following proceedings were had, to wit:

## DEPOSITION OF JOSEPH A. SNOW.

JOSEPH A. SNOW, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. What is your name?—A. Joseph A. Snow.

Q. You are a resident of Juneau, Alaska?—A. Yes, sir.

Q. How long have you been a resident of Juneau?—A. Well, I have been a continuous resident since 1901; lived here previous to that, but continuous since 1901.

Q. You are a resident of this city at the present time?—A. Yes.

Q. Now, where were you on the 5th day of last November?—A. I was a passenger on the steamer *Catherine D*, en route from Ketchikan to Juneau.

Q. Did you vote at the voting precinct at Kake?—A. I did, sir.

Q. Whom did you vote for?—A. Charles A. Sulzer.

Q. At that time you were a resident of Juneau?—A. Yes, sir.

Mr. RUSTGARD. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. You cast your vote, Mr. Snow, at Kake?—A. Yes, sir.

Q. Under the Territorial law which permitted you to vote anywhere in the first division?—A. Yes, sir.

Q. You had been a resident of Juneau for many years?—A. Yes, sir.

Q. Kake is in this division?—A. Yes, sir.

Q. Same division as Juneau?—A. Yes, sir.

Q. You understood you had a right to cast your vote at that point under the provisions of the Territorial law that provides that a resident of the first division could vote anywhere in that division?—A. Yes, sir. I could not reach Juneau in time to vote here on election day, and I took advantage of that provision in that act by the legislature.

Mr. HELLENTHAL. That is all.

Mr. Hellenthal waived signing of the deposition by Mr. Snow.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 30th day of August, 1919, the foregoing witness, Joseph A. Snow, having been first duly sworn to testify the truth, the whole truth and nothing but the truth, in his direct and cross-examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after taking of said deposition, Mr. Hellenthal, appearing in behalf of contestee, waived signing of the deposition by Mr. Snow.

In witness whereof, I have hereunto set my hand and official seal this 3d of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq.; John Rustgard on behalf of contestant; and J. A. Hellenthal, and John R. Winn, on behalf of contestee.

Notice having been duly given and process served on J. R. McNeil for the taking of his deposition on behalf of contestant before the above-named officer on Saturday, August 30, at 4 o'clock p. m., the following proceedings were had, to wit:

## DEPOSITION OF J. R. McNEIL.

J. R. McNEIL, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name, Mr. McNeil.—A. J. R. McNeil.

Q. Are you a resident of Juneau, Alaska?—A. Yes, sir. I have been here about seven years.

Q. How long have you been a resident of this city?—A. Well, I have been away for about eight months. Up to the time of this election I had been here about seven years.

Q. You went away from Juneau last fall?—A. I went away. I left about the 23d or 24th of November.

Q. How long had you been in Juneau at the time you left this city last November?—A. I was here since 1913.

Q. You had been a resident of Juneau since 1913 up to about the 23d or 24th of last November?—A. Yes, sir.

Q. You were a resident of Juneau on the 5th of last November?—A. I was in Warm Springs Bay the 5th of last November.

Q. How long were you there?—A. I got there about the 13th of October.

Q. What time did you leave Juneau on that trip?—A. Left about the 10th of October.

Q. 1918?—A. 1918; yes, sir.

Q. You did not consider Warm Springs Bay your place of residence or your home, did you?—A. Well, I don't know as I would.

Q. You only went there just for a little outing?—A. I went there for my health. I have been in business here for four or five years and had no recreation. Went up there to stay a month; in fact, I stayed a little longer than that, I think.

Q. You voted at the general election at Warm Springs Bay, in Alaska, on the 5th of last November?—A. Yes, sir. I think it's the 5th. Anyway, I voted on election day; I don't remember if it was the 5th or not.

Q. Whom did you vote for as Delegate to Congress?—A. I don't know whether I am under obligations to answer that question or not, Judge.

Q. I request you to answer it.—A. I know you request me to answer it, but—

Judge WINN (Interrupting). Go ahead and answer it, Jack.

A. I voted for Mr. Sulzer.

Mr. RUSTGARD. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. You voted on that Territorial law that permitted you to vote anywhere in your division?—A. We looked over the law—we had the Territorial law passed by the Territorial legislature—looked it over very thoroughly before we voted. We figured, according to this Territorial law, that we were entitled to a vote, and we voted under that Territorial election law.

Q. You have been a resident of the first division for several years?—A. Seven years. Very near 7 years. Been in Alaska 17 years and have voted all over the Territory.

Redirect examination by Mr. RUSTGARD:

Q. Were you together with H. J. Raymond and Selmar Jacobson on that trip?—A. Went up on the same boat.

Q. The same boat—the *Constance*?—A. Yes, sir.

Q. That was yourself, Harry Raymond, and Mrs. Harry Raymond, Selmar Jacobson, and Mrs. Selmar Jacobson?—A. Yes, sir.

Q. And you were all good Democrats?—A. I told you how I voted. I don't know how they voted.

Q. You found nobody on that boat that had a good word for Mr. Wickersham, did you?—A. I have probably known Mr. Wickersham longer than you have. I have never seen Mr. Wickersham do any harm and have nothing to say against him. I met him on the trail, traveled with him, come out from Fairbanks with him. He's as nice a man as I ever met.

Mr. RUSTGARD. That is all.

J. R. McNEIL.

Subscribed and sworn to before me this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
Territory of Alaska, ss:

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 30th day of August, 1919, the foregoing witness, J. R. McNeil, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down

stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 4th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq.; John Rustgard and J. B. Marshall, on behalf of contestant; and J. A. Hellenthal and John R. Winn, on behalf of contestee.

Notice having been duly given and process served on Harry J. Raymond, for the taking of his deposition on behalf of contestant, before the above-named officer, on Friday, September 5, 1919, at 4 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF HARRY J. RAYMOND.

HARRY J. RAYMOND, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name.—A. Harry J. Raymond.

Q. And your place of residence?—A. Juneau, Alaska.

Q. How long have you lived here?—A. I've been in Alaska 23 or 24 years. In Juneau about 16 or 17 years.

Q. You are acquainted with Mrs. Harry J. Raymond?—A. Yes.

Q. That is your wife?—A. Yes.

Q. She has lived with you for several years last past?—A. Twenty-four years, steady.

Q. Both of you lived here in Juneau on the 5th of last November?—A. No. We were at Warm Springs on the 5th of last November.

Q. Where was your place of residence?—A. Well, our residence was in Juneau. But we were living on the boat on the 5th of November.

Q. You and Mrs. Raymond and Mr. Selmar Jacobson and Mrs. Selmar Jacobson and Mr. J. R. McNeill, otherwise known as Bob McNeill, left Juneau for Warm Springs Bay on the 10th of October, 1918?—A. Yes.

Q. On the boat *Constance*?—A. Yes; on the boat *Constance*.

Q. And you lived on that boat on that trip?—A. Yes.

Q. And returned at what time?—A. We got back here about the 13th or 14th of November. But I had been living on the boat since May—May 10.

Q. What business were you in?—A. We were following the business of inspecting fish traps and diving.

Q. You were working with Mr. Jacobson?—A. Yes, sir.

Q. Whose business was that of a diver?—A. Yes.

Q. Mr. Jacobson's home was also in Juneau?—A. Well, he has a house here, furnished, in Juneau, but he was living on the boat.

Q. Where was his wife living?—A. His wife was living part of the time at Juneau and part of the time on the boat. She made two or three trips with us on the boat and was with us on this trip. When we got to Warm Springs Bay on the 13th of October they took a cabin on the hill, and my wife and I lived on the boat until the storm broke the boat down and we had to take a cabin.

Q. How long did they live there?—A. In Warm Springs Bay?

Q. Yes.—A. From the 13th of October until, I think it was about the 10th of November.

Q. Then you went back to Juneau?—A. Went back to Juneau; yes.

Q. You all voted at Warm Springs Bay?

Judge WINN (interrupting). I object to the question not being the best evidence except so far as it may concern Mr. Raymond and Mrs. Raymond. I told Mr. Marshall here that I would not compel them to have Mrs. Raymond come here to testify. But as to the remaining part of what might be the answer as to what Jacobson and his wife and McNeill did is not the best evidence.

A. I know my wife and I voted.

Q. On the 5th of last November?—A. Yes, sir.

Q. That Warm Springs Bay is the precinct known as Baranof precinct?—A. Yes, sir.

Q. Who did you vote for?—A. I voted for Charles Sulzer.

Q. So far as you know, your wife voted also for Charles Sulzer?—A. Yes.

Q. Do you know whether or not Mr. and Mrs. Jacobson or either of them voted at Baranof precinct that day?

Judge WINN (interrupting). I object to that as not the best evidence. The record of election, etc., which is required to be kept, is the best evidence as to who voted.

A. They did not vote in my presence.

Q. Were they in the voting precinct at the time you were there?—A. They were; yes, sir.

Q. Did you ever speak to them as to whom they intended to vote for or whom they had voted for?

Judge WINN (interrupting). Same objection.

A. I told them who I was going to vote for, but didn't ask him who he voted for.

Q. Did they state to you who they voted for, either of them?

Judge WINN (interrupting). Same objection. Not the best evidence, incompetent, immaterial.

A. No, they did not.

Mr. MARSHALL. I think that is all.

Cross-examination by Mr. HELLENTHAL:

Q. How did you come to vote at Warm Springs Bay on the 5th of November?—A. Because it was election day and I thought I had a right to vote. I was so informed by the judges, it being in the first division.

Q. Warm Springs Bay is in the same division that you have resided in for many years?—A. Yes, sir. There was a copy of the election laws on their desk, a little book or pamphlet. I read that over and in two different clauses I certainly thought that I was right in voting there. One was that in case a man's vocation takes him away from his precinct, or incorporated town in which he is registered, that he has a right to vote in any precinct in the division in which he lives. The other clause was in regard to seamen and sailors. The boat being in my name and having lived on the boat all summer and acting as captain of the boat and my wife being with me, I certainly thought I had a right to vote there.

Q. How long have you and your wife been living on the boat?—A. Well, she has been with me on there since October 10.

Q. How long have you been on the boat?—A. Since May 10. I was longer in Warm Springs Bay than any other place in southeastern Alaska since May 10, by far.

Judge WINN (interrupting). Of that year?—A. Of that year.

Q. Did you have occasion to discuss this matter with others who had voted on that day?—A. What? The right to vote?

Q. Yes.—A. I got that pamphlet and read it over and asked the election judges up there and showed them that clause and they said I had a right to vote under that clause, since that time when I came back I was sitting down at the Alaska Hotel and was studying about it. I was the first time you spoke to me about it, remember? (to Mr. Marshall). And I said something about it and one of the fellows said, "That's nothing. I killed your vote and three times over, because we voted in Skagway for Wickersham and was only there 24 hours."

Mr. MARSHALL. I object to filling the records with Mr. Raymond's personal opinions, etc., for which we are paying so much a hundred words, and accomplishes no purpose.

Q. How many voted at Skagway for Wickersham who had only been there 24 hours?

Mr. MARSHALL (interrupting). I object to that unless you have personal knowledge of their voting.

Mr. RUSTGARD. I object to it for the further reason that we are not taking evidence in the case for the contestee at the present time, and this witness is called for a special purpose and this is not cross-examination on anything he testified to in chief.

Q. Answer the question.—A. Three, I was told.

Q. That is to say, there were three in this particular party. There may have been many more.—A. There were three who had only been there 24 hours.

Mr. HELLENTHAL. That is all.



Redirect examination by Mr. RUSTGARD:

Q. You stated that you considered you had a right to vote because you had lived on the boat and the boat was in your name?—A. The boat was in my name and I had lived in the first division according to law, in the first division of Alaska.

Q. The boat was in your name?—A. Yes, sir.

Q. Was not it in your wife's name?—A. Well, according to the customhouse papers, whoever is the captain of the boat—

Q. The customhouse records show that the boat was in Mrs. Raymond's name and not in your name.—A. Beg pardon. You misunderstand that boat proposition. The ownership of the boat—the boat was owned between Mrs. Jacobson and Mrs. Raymond, but whenever the boat goes out on a trip, it don't make any difference who the owner is, the captain's name is indorsed on the paper, and—

Q. What did you mean by saying that the boat was in your name?—A. Because the boat is in the captain's name when he takes it out.

Q. You mean to say you were indorsed on the paper as the captain?—A. Yes; or operator of the boat.

Q. And Mrs. Raymond the owner?—A. Mrs. Raymond and Mrs. Jacobson the owners.

By Mr. MARSHALL:

Q. I want to ask one additional question: Were you not the president, during the last campaign, of the Sulzer Club?—A. Me?

Q. The Empire printed it that way. I just wanted to know.—A. Me? I have never attended a meeting of a political organization or anything else. They may have gotten it that way in the paper, but you never see me mixed up in politics one way or the other.

By Mr. HELLENTHAL:

Q. Isn't it a fact that you are a Republican?—A. Yes, sir.

Q. And have been for many years?—A. Yes, sir; all my life.

H. J. RAYMOND.

Subscribed and sworn to before me this 9th day of September, 1919.

[SEAL]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 5th day of September, 1919, the foregoing witness, Harry J. Raymond, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction, and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof I have hereunto set my hand and official seal this 9th day of September, 1919.

[SEAL]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

*To the above named contestee and his attorneys, J. A. Hellenthal and John R. Winn:*

Take notice that before Grover C. Winn, a notary public, at the said notary's office in Juneau, Alaska, on Friday, the 29th day of August, 1919, at 5 o'clock p. m. of that day, the contestant James Wickersham will take the deposition of A. B. Cole, a resident of Juneau, Alaska, as witness for contestant.

Dated this 22d day of August, 1919.

JAMES WICKERSHAM,  
Contestant.

By JOHN RUSTGARD,  
Attorney for Contestant.

Copy of the above notice received at Juneau, Alaska, this 22d day of August, 1919.

JNO. R. WINN.

Before G. C. Winn, Esq., notary public, at his office in the Valentine Building, Juneau, Alaska.

Present: G. C. Winn, Esq., John Rustgard on behalf of contestant, and J. A. Hellenthal and John R. Winn on behalf of contestee.

Notice having been duly given and process served on A. B. Cole, for the taking of his deposition on behalf of contestant, before the above named officer, on Saturday, August 30, at 4 o'clock p. m., the following proceedings were had, to wit:

DEPOSITION OF A. B. COLE.

A. B. COLE, being first duly sworn, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name, Mr. Cole.—A. B. Cole.

Q. What is your occupation?—A. City clerk.

Q. How long have you been in that position?—A. Something over two years.

Q. Did you have charge of the registration of voters for the city election here in Juneau last spring?—A. I did.

Q. Under the ordinances each voter is required to register before the election is held?—A. Yes, sir.

Q. And the election is held the first Tuesday in April?—A. It is.

Q. Did you register as a voter Mr. H. J. Raymond last spring before the election?

Mr. HELLENTHAL (interrupting). I object to that as immaterial.

A. Yes, sir.

Q. Do you remember the date he registered?

Mr. HELLENTHAL (interrupting). Immaterial.

A. February 25.

Q. Nineteen nineteen?—A. Nineteen nineteen.

Q. Did Mrs. H. J. Raymond register?—A. No.

Q. Do you remember what Raymond gave as his place of residence?

Mr. HELLENTHAL (interrupting). I object to that as immaterial.

A. Well, I never asked them the place of residence. I assumed that as long as they make an affidavit that their residence is the city of Juneau that that is all I had to pay any attention to.

Q. Does your book show the place of residence?—A. Yes, sir.

Q. You write that in at the time they register? You write that in when the prospective voter gives his name to you?—A. I do that before then.

Q. You fill in his name and then you will fill in his place of residence?—A. Yes, sir.

Q. Street number?—A. Providing he knows it and I know it.

Q. And then he signs the registration book?—A. Yes, sir.

Q. And that registration book contains an affidavit that he is a resident of Juneau.—A. He has already signed an affidavit to that effect.

Q. And that he has resided in the city for at least six months prior thereto?—A. Yes, sir.

Mr. HELLENTHAL (interrupting). I object to that. The affidavit would be the best evidence.

Q. Is that affidavit on file in your office?—A. Yes, sir.

Q. Did Selmer Jacobson register as a voter prior to the last city election in Juneau?

Mr. HELLENTHAL (interrupting). We object to that as immaterial. The fact that a man was a resident of Juneau in the spring of 1919 does not prove that he was a resident of Juneau in the fall of 1918.

A. He registered for the April, 1919, election.

Q. Now, then, do you remember the date of his registration?—A. March 24 or 25.

Q. Nineteen nineteen?—A. Nineteen nineteen.

Q. Did he sign the required affidavit that he was then a resident of the city of Juneau and had been such for six months prior thereto?—A. Yes, sir.

Q. Is that affidavit on file in your office?—A. Yes, sir.

Q. Did Mrs. Selmer Jacobson register as a voter for the last election?—A. Yes, sir.

Mr. HELLENTHAL (interrupting). I object to that as immaterial.

Q. Do you remember the date that she registered?

Mr. HELLENTHAL (interrupting). That's immaterial.

A. I think it was the day after he did. I'm not quite certain. Sometime in March, 1919, the 24th or 25th or somewhere along there.

Q. Did she at that time sign the required affidavit?

Mr. HELLENTHAL (interrupting). We object to that as being both immaterial and not the best evidence, the affidavit being the best evidence.

A. Yes; she did.

Q. Is that affidavit on record in your office at the present time?—A. It is.

Mr. RUSTGARD. I would like to ask the council if they are willing to accept in place of the original a certified copy of each of those affidavits.

Mr. HELLENTHAL. I think so. We will, of course, object to them on the grounds of being immaterial, but we have no object to the copy, providing it is a certified copy.

Q. Mr. Cole, will you prepare and certify to a copy of each of these affidavits—one of Raymond and one of Jacobson and one of Mrs. Jacobson, and attach them to your deposition? I will pay you for the certification.—A. Yes, sir.

Mr. RUSTGARD. That is all.

Mr. HELLENTHAL. I guess there's nothing more.

A. B. COLE.

Subscribed and sworn to before me this 5th day of September, 1919.

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA, *Territory of Alaska, ss:*

The undersigned, G. C. Winn, a notary public for the Territory of Alaska, does hereby certify that on the 30th day of August, 1919, the foregoing witness, A. B. Cole, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, in his direct and cross-examinations, did testify as set forth in the foregoing deposition, that said testimony was taken down stenographically in his presence and thereafter transcribed in typewritten form under his direction and that after the same was read by said witness he swore to the same and signed his name thereto.

In witness whereof, I have hereunto set my hand and official seal this 5th day of September, 1919.

[SEAL.]

G. C. WINN,  
Notary Public for Alaska.

My commission expires July 22, 1921.

UNITED STATES OF AMERICA,  
*Territory of Alaska, city of Juneau, ss:*

I, the undersigned, clerk of the city of Juneau, Alaska, hereby certify that the attached is a correct copy of the original affidavit on file in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of the city of Juneau, Alaska, this 20th day of September, 1919.

[SEAL.]

A. B. COLE,  
Clerk of the City of Juneau, Alaska.

To A. B. COLE,  
*Registration Officer, Juneau, Alaska:*

I hereby make application to be registered as a qualified elector to vote at the regular April, 1919, election to be held in the city of Juneau, Territory of Alaska, on April 1, 1919, and to prove my qualifications I hereby make the following affidavit.

MRS. SELMER JACOBSEN, *Applicant.*

UNITED STATES OF AMERICA,  
*Territory of Alaska, city of Juneau, ss:*

I, the undersigned, being first duly sworn, on oath depose and say that I am a citizen of the United States; that I have resided continuously one year next

preceding April 1, 1919, in the Territory of Alaska, and six months next preceding April 1, 1919, in the limits of the corporation of Juneau, Alaska.

In witness whereof, I have hereunto set my hand this March 28, 1919.

MRS. SELMER JACOBSEN.

Subscribed and sworn to before me this March 28, 1919.

[SEAL.]

A. B. COLE,

*Notary Public in and for the Territory of Alaska, residing at Juneau.*

My commission expires October 20, 1921.

UNITED STATES OF AMERICA.

*Territory of Alaska, city of Juneau, ss:*

I, the undersigned, clerk of the city of Juneau, Alaska, hereby certify that the attached is a correct copy of the original affidavit on file in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of the city of Juneau, Alaska, this 20th day of September, 1919.

[SEAL.]

A. B. COLE.

*Clerk of the City of Juneau, Alaska.*

To A. B. COLE,

*Registration officer, Juneau, Alaska:*

I hereby make application to be registered as a qualified elector to vote at the regular April, 1919, election, to be held in the city of Juneau, Territory of Alaska, on April 1, 1919, and to prove my qualifications I hereby make the following affidavit:

SELMER JACOBSEN, *Applicant.*

UNITED STATES OF AMERICA,

*Territory of Alaska, city of Juneau, ss:*

I, the undersigned, being first duly sworn, on oath depose and say that I am a citizen of the United States; that I have resided continuously one year next preceding April 1, 1919, in the Territory of Alaska, and six months next preceding April 1, 1919, in the limits of the corporation of Juneau, Alaska.

In witness whereof, I have hereunto set my hand this March 28, 1919.

SELMER JACOBSEN.

Subscribed and sworn to before me this March 28, 1919.

[SEAL.]

A. B. COLE,

*Notary Public in and for the Territory of Alaska, residing at Juneau.*

My commission expires October 20, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, city of Juneau, ss:*

I, the undersigned, clerk of the city of Juneau, Alaska, hereby certify that the attached is a correct copy of the original affidavit on file in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of the city of Juneau, Alaska, this 20th day of September, 1919.

[SEAL.]

A. B. COLE.

*Clerk of the City of Juneau, Alaska.*

To A. B. COLE,

*Registration officer, Juneau, Alaska:*

I hereby make application to be registered as a qualified elector to vote at the regular April, 1919, election, to be held in the city of Juneau, Territory of Alaska, on April 1, 1919, and to prove my qualifications I hereby make the following affidavit:

H. J. RAYMOND, *Applicant.*

UNITED STATES OF AMERICA,

*Territory of Alaska, city of Juneau, ss:*

I, the undersigned, being first duly sworn, on oath depose and say that I am a citizen of the United States; that I have resided continuously one year next

preceding April 1, 1919, in the Territory of Alaska, and six months next preceding April 1, 1919, in the limits of the corporation of Juneau, Alaska.

In witness whereof, I have hereunto set my hand this March 25, 1919.

H. J. RAYMOND.

Subscribed and sworn to before me this March 25, 1919.

[SEAL.]

A. B. COLE.

*Notary Public in and for the Territory of Alaska, residinig at Juneau.*

My commission expires October 20, 1921.

VALDEZ, ALASKA, August 23, 1919.

Be it remembered, that in pursuance to the resolution No. 105 of the House of Representatives, Sixty-sixth Congress, and the statutes of the United States in relation to contested election cases, and the pleadings in the case of James Wickersham v. Charles A. Sulzer and James Wickersham v. George B. Grigsby, contested election case in the House of Representatives from the Territory of Alaska, the parties appeared before Hon. J. L. Reed, a notary public, at his office in the town of Valdez, Alaska, on the said 23d day of August, 1919, there being present:

Hon. J. L. Reed, notary public; Isaac Hamburger, stenographer; E. E. Ritchie, Esq., attorney for the contestant; and the contestant, James Wickersham, in person, and Mr. A. J. Dimond, appearing for the contestee, George B. Grigsby.

Whereupon the following proceedings were had:

DONALD H. TYER was sworn by the notary.

Mr. WICKERSHAM. Before the matter is heard any further, Mr. Dimond, I wish to exhibit to you an agreement made in triplicate between myself as contestant, and Mr. George B. Grigsby, as contestee, on the 28th day of July, 1919, at Washington, D. C., with respect to the appointment of agents in the Territory of Alaska upon whom service of process might be made in the various portions of the Territory. The agreement provides for the appointment of an agent for each of us at Washington, D. C.; at Seattle, in the State of Washington; at Juneau, Alaska; at Valdez, Alaska; at Fairbanks, Alaska; and at Nome, Alaska; and the agents provided for at Valdez, Alaska, are J. L. Reed for the contestant, and A. J. Dimond and Tom Donohoe for the contestee. I exhibit the original to you, signed by Mr. Grigsby. I suppose you have a copy of it.

Mr. DIMOND. No; I have no copy, but Mr. Grigsby informed me by telegraph that he had appointed me as his agent, so I don't question this service. Mr. Reed represents you in any depositions that Mr. Grigsby may wish to take here?

Mr. WICKERSHAM. Yes; under the agreement. I also call your attention to the pleadings in the case. I prepared on May 3, 1919, at Juneau, Alaska, a notice of contest against the election of November 5, 1918, in which I was a candidate on the Republican ticket for Delegate from Alaska, and Charles A. Sulzer was a candidate on the Democratic ticket for Delegate from Alaska. The fact was that Mr. Sulzer died on April 15, 1919, before the certificate issued. The certificate of election was issued by the canvassing board on April 17, 1919, 5 months and 12 or 14 days after the date of the election and 2 days after Mr. Sulzer's death.

I prepared the notice of contest and forwarded it to the Clerk of the House of Representatives on May 3, 1919. It was received in Washington on or about the 16th day of May, 1919, and on June 2, 1919, the Clerk of the House of Representatives forwarded it to the Speaker of the House of Representatives and it was ordered to be printed by the House of Representatives as House Document No. 74, Sixty-sixth Congress, first session, and I assume you have received a copy of that, as I have made service of a copy of it.

Mr. DIMOND. That is all right. All I know about it is, I got a wire from Mr. Grigsby stating he had appointed me as service agent in the taking of depositions in the contest between himself and yourself. I can't necessarily represent Mr. Sulzer in any way, since he is dead, and I know nothing about that.

Mr. WICKERSHAM. I served a copy of this on Mr. Grigsby on June 28, 1919, at Washington, D. C., and together with a copy of House Document No. 74 served on Mr. Grigsby on that date, I also served upon him a separate notice of contest, directed against him, and specifically covering not only the election of November 5, 1918, with Mr. Sulzer, but also the election of June 3, 1919,



the special election, in which Mr. Grigsby claims to have been elected, and I have here the original of that notice of contest served upon Mr. Grigsby on June 28, 1919, with proof of service attached to it, and I exhibit that to you [handing paper to Mr. Dimond].

Thereafter, on July 26, Mr. Grigsby served a copy of his answer in the case of Wickersham v. Grigsby, in the contested election case mentioned, upon me in Washington, D. C., and to that copy served on me is this certificate: "The foregoing is a true and correct copy of the original answer herein. George B. Grigsby, contestee. Dated July 26, 1919." And I assume this is, of course, a copy because it was served upon me by Mr. Grigsby and seems to be a full copy of his answer in the matter. I exhibit that to you [handing paper to Mr. Dimond].

Mr. DIMOND. That is all right; I don't care to see it.

Mr. WICKERSHAM. To that I filed a reply immediately, denying the affirmative allegations of his answer and these pleadings have all been served in accordance with the rule provided by the statute of Congress.

I also made application to the House of Representatives for the passage of a resolution by the House, fixing the time of service of papers in the two cases and consolidating the two cases and providing for service upon Mr. Grigsby instead of upon Mr. Sulzer, who is dead, and upon whom no service could be made, and after some little time, the House of Representatives, on July 28, 1919, passed House Resolution 105 and I have here an official copy of that House Resolution 105 passed by the House of Representatives on July 28, 1919, and signed by William Tyler Page, Clerk of the House of Representatives, and I exhibit it to you and ask you to read it if you will.

Mr. DIMOND. Yes; I would like to see that (read it).

Mr. WICKERSHAM. Mr. Dimond, this resolution requires, in paragraph 9, as follows:

"That the Secretary of War be, and he his hereby, requested to order by telegraph immediately on the passage of this resolution that the 40 soldiers named, and whose Army status is described in the certified list, dated June 11, 1919, signed by the War Department officials, and which list is attached to the application of contestant for the passage of this resolution, be assembled at the office of the commanding officer of the United States military cable and telegraph in the towns of Valdez, Sitka, and Fairbanks, Alaska, within the 40-days' period for taking testimony by the contestant, then to be examined under oath by contestant or his attorney or agent, touching the matters and things alleged in the notice and statement of contest on file in this House, and in this cause."

I call that to your attention because most of the witnesses here are of that class—ordered to appear here specially by the House of Representatives for this examination.

I also want to call your attention, Mr. Dimond, to one or two more things before we proceed to the taking of this testimony. It has been brought to my attention very positively and several times that there was an inclination on the part of some of these witnesses either to refuse to testify or to testify falsely.

Mr. DIMOND. I object to any such statement as purely argumentative and not based upon any evidence now in the record. I do not think it is proper to put statements of that kind into the record at this time. That might be used as argument before the House, of course, when it is heard there.

Mr. WICKERSHAM. I am calling the matter to your attention because I can hardly credit such statements, especially in connection with you, because you have always borne such a good reputation as an attorney.

Mr. DIMOND. I object to that, too.

Mr. WICKERSHAM. And I can hardly credit it because the penalty for perjury is so severe in this Territory that I do not think any witness or witnesses ought to be misled in the matter.

I have also been informed that Mr. Donohoe has advised the witnesses and that you have frequently advised them not to testify and that Mr. Donohoe, who is your partner and who is Democratic national committeeman in this Territory, has just before this hearing, the last few days, sent a telegram to you somewhat to that effect.

Mr. DIMOND. I object to all of these statements as not based upon facts and absolutely without foundation in fact and move they all be stricken from the record, as they have not proper place in the record, and I object to

the stenographer taking down these statements and putting them into the record and putting any further statements of that kind into the record.

Mr. WICKERSHAM. I am making these statements, Mr. Dimond, because we have had so much trouble in the matter of taking the depositions of these Signal Corps men here, because I think it has become a menace, not only to the administration of justice, but I think has become a much worse menace in the work of the Signal Corps here.

Mr. DIMOND. I object to any such statements going into the record, as absolutely without foundation in fact and purely argumentative. I can go further and that that it is absolutely false so far as my knowledge is concerned—as far I have any knowledge of the facts in the case.

Mr. WICKERSHAM. You don't make any denial of the fact that you have heretofore advised witnesses not to testify?

Mr. DIMOND. I certainly do.

Mr. WICKERSHAM. In the other record.

Mr. DIMOND. You had no right to take any evidence at that time and I did advise them at that time.

Mr. WICKERSHAM. Now, I want to make this further statement to Mr. Tyer—that I learned yesterday for the first time that he was going to leave the Territory of Alaska on the *Alameda*, probably going out to-morrow night, and I issued a subpoena very late yesterday afternoon for his appearance at this time, but I recognize, of course, that that subpoena is objectionable because it does not give him five days' notice.

Mr. DIMOND. There is no objection whatever to that on my part.

Mr. WICKERSHAM. You don't have the objection to make. Mr. Tyer has that right and that is why I am making the statement to him. The subpoena was issued for his appearance here this morning to save him any inconvenience in going out because the order of the House of Representatives is to keep these Signal Corps men here, who are named in that resolution, until their testimony can be taken under the rule. Now this is not under the rule strictly speaking and I recognize that, and if Mr. Tyer has any objection to testifying as he has sworn he would do fully, the truth and the whole truth, I would like to have him make that objection now, because if he does, I can then make another subpoena on him to appear next Thursday with the other witnesses and save any question.

Mr. TYER. I have no objections.

Mr. RITCHIE. You waive your right for five days' notice?

Mr. TYER. I do.

#### DEPOSITION OF DONALD H. TYER.

DONALD H. TYER, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examined by Judge WICKERSHAM:

Q. Where were you born?—A. In the State of Missouri.

Q. When did you enlist in the Regular Army service of the United States?—

A. May 13, 1917.

Q. Where?—A. Des Moines, Iowa.

Q. Where was your residence at that time?—A. My residence was in Iowa.

Q. How long had you resided there?—A. About two years.

Q. Have you been a member of the Regular Army from that time to this?—

A. Yes, sir.

Q. What is the purpose of your going out on the *Alameda*?—A. Going out to be discharged, by order.

Q. Are you coming back immediately?—A. Not until I visit some.

Q. Where are you going when you are discharged?—A. Going to Missouri.

Q. Is that where you formerly lived?—A. It is where I was born.

Q. Were you a member of the Signal Corps service in the Regular Army of the United States on November 5, 1919?—A. No, sir.

Q. What service were you in?—A. Quartermaster.

Q. In what service?—A. Quartermaster.

Q. In the Regular Army of the United States?—A. Yes, sir.

Q. You were here, then, at that time, November 5, 1918?—A. Yes, sir.

Q. The day of the general election last year?—A. Yes, sir.

Q. Did you vote on that day?—A. Yes, sir.

Q. You may state if you voted for Mr. Connolly, the Socialist candidate for Delegate to Congress?

Mr. DIMOND. We object to any questions directed to the questions as to whom the witness voted for, and I now advise the witness that he is not required to state for whom he voted, whether he voted for one or the other.

Mr. WICKERSHAM. You may answer the question; please read it, Mr. Reporter.

(Question read as follows:)

Q. You may state if you voted for Mr. Connolly, the Socialist candidate for Delegate to Congress?

Mr. WICKERSHAM. On that date Mr. Francis Connolly was a candidate for Delegate to Congress from the Territory of Alaska on November 5, 1918?

A. I did not.

Q. Have you any objection to stating whom you did vote for?—A. Yes, sir; I have.

Q. What objection have you?

Mr. DIMOND. I object to that question also, for the reasons given heretofore, that the witness is not required to state any grounds of objection to answering questions as to whom he voted for.

Mr. RITCHIE. The weight of authority is against you on that.

Mr. DIMOND. I think not.

The WITNESS. I haven't any objection, only I don't think I am required to tell whom I voted for.

Q. Do you refuse to tell?—A. Well, the only objection I have to telling is because I am sorry I voted for whom I did; I voted for James Wickersham.

Q. You are the son-in-law of Mr. Selby of the newspaper here, are you not?—A. Yes, sir.

Q. Your wife is Mr. Selby's daughter?—A. Yes, sir.

Q. And Mr. Selby and the newspaper have been very strong, bitter opponents of Mr. Wickersham at all times?—A. Yes, sir.

Q. And haven't you on many occasions denounced Mr. Wickersham yourself and expressed enmity toward him in a political way?—A. Not until the last contest.

Q. The last contest was long before the election of November 5, 1918?—A. I refer to the contest that you had here some time ago when you were not present.

Q. Prior to that time you think you were friendly to Mr. Wickersham?—A. Well, it was because I didn't know anything about him.

Q. You don't feel friendly to him now?—A. I do not.

Q. On the contrary, very unfriendly?—A. Yes, sir.

Q. And Mr. Selby, editor and proprietor of the Valdez Prospector, has been very unfriendly to him at all times, hasn't he?—A. I couldn't say.

Q. Haven't you read the paper?—A. I have read the paper, but I never paid much attention to that.

Q. Don't you know the paper has very earnestly opposed Mr. Wickersham at all times?—A. I have heard it.

Q. You visit frequently at Mr. Selby's?—A. Yes, sir.

Q. And you know that is the sentiment there, don't you?—A. Yes, sir.

Q. Haven't you told persons since November 5, 1918, that you voted for Mr. Sulzer?—A. No, sir.

Q. You are sure about that, now?—A. Yes, sir.

Q. You are just as sure about that as you are about anything else you are testifying to?—A. Yes, sir.

Q. To whom have you talked about this matter; have you talked to Mr. Dimond about it—about your testimony in this case?—A. Have I talked to him about it?

Q. Yes.—A. In what way do you mean?

Q. I mean have you consulted with Mr. Dimond or with his partner, Mr. Donohoe, about your evidence in this case? About what you were going to say if you were put on the witness stand?—A. No, sir; I have not told him what I was going to say particularly; I talked to him some.

Q. What was the burden of that conversation—what did you talk about?—A. Well, I simply asked him if I was forced to tell for whom I voted in case I was asked.

Q. And what did they tell you?—A. They told me that I did not.

Q. Which one did you talk to?—A. I talked to Mr. Dimond.

Q. Have you talked to Mr. Donohoe about it?—A. No, sir; not personally.

Q. Do you remember when I was here along in May that I wrote you a letter and asked you to make a statement in respect to this matter?—A. Yes, sir.

Q. You didn't answer the letter?—A. No, sir.

Q. You didn't make any statement?—A. No, sir.

Q. And took a very strong stand against it?—A. Yes, sir.

Q. Why did you do that?—A. Why did I do it?

Q. Yes.—A. Because I didn't agree with the stand you had taken against the soldiers, which I didn't know prior to that time.

Q. What stand do you understand I have taken against any soldiers?—

A. Well, I think I am an American citizen myself.

Q. That is not the question I asked you; I asked you what stand I have taken against the soldiers that induced you to have that sort of feeling?—

A. It was understood you said soldiers were not American citizens and they were not entitled to vote.

Q. Somebody told you that?—A. I have heard that—I don't know whether it was told to me personally or not.

Q. Who told you such a story as that?—A. I don't remember who it was.

Q. Did anybody?—A. Yes, sir.

Q. Can you tell who it was?—A. I don't remember; it has been the general talk.

Q. Did Mr. Selby, your father-in-law, tell you that?—A. I don't think it was him; no.

Q. Are you sure it wasn't him?—A. No; I am not sure of it.

Q. When did he tell you that?—A. I don't know.

Q. Did you believe that story?—A. Well, I sure did.

Q. Did you know that my son was in the Navy as lieutenant commander?—  
A. No, sir.

Q. And that my youngest brother was in the Army in France?—A. I didn't know a thing about it.

Q. And that I had purchased several thousand dollars' worth of Liberty bonds at various times?—A. No, sir.

Q. And have repeatedly taken the oath to support the Constitution and laws of the United States; did you know those things?—A. No.

Q. You didn't hear me say anything that would justify that statement, did you?—A. No, sir.

Q. And you don't know who told you?—A. No, sir.

Q. When did you hear those stories first?—A. Well, I have been hearing them off and on now about a year.

Q. And you became convinced that I was a disloyal citizen?—A. Almost.

Q. And you don't know who told you?—A. No, sir.

Q. Can't you mention any one person that told you that story?—A. No, sir.

Q. Did Tom Donohoe tell it to you?—A. No, sir.

Q. Did Mr. Dimond?—A. No, sir.

Q. Was anything like that published in the Valdez Prospector, published by your father-in-law?—A. Not that I know of.

Q. Similar stories to that were published in that paper, were they not?—  
A. Not that I know of; I never read them.

Q. Did he tell you stories of that kind?—A. No, sir.

Q. And you seem to be unable to tell anybody that told you that story?—  
A. Yes, sir.

Q. But it made a powerful impression upon you?—A. Yes, sir.

Q. So you were opposed to me?—A. Yes, sir.

Q. You heard these stories as long as a year ago?—A. It has been almost a year ago; it was immediately after the election. Particularly after you began to contest the last election.

Q. So you voted for me on election day?—A. I did.

Q. Did you vote at the primary election in the May preceding?—A. No, sir.

Q. Did you belong to any of the political clubs here?—A. No, sir.

Q. And you are quite positive you haven't told anybody that you voted for Mr. Sulzer?—A. Yes, sir.

Q. And you are sure you did not?—A. Yes, sir.

Q. You don't want to make a misstatement about the matter?—A. No, sir; I do not.

Q. Where were you born and raised, in Missouri?—A. Yes, sir.

Q. What part of Missouri?—A. Hale, Mo.

Q. What political party did you belong to in Missouri?—A. I never belonged to any.

Q. What political party did your father belong to?—A. He is what you would call a Democrat, I suppose, but he votes for the man, not the party.

Q. And Mr. Selby is running a Democratic newspaper here and fighting me as hard as he knows how?—A. I believe so.

Mr. WICKERSHAM. That is all.

Questions by Mr. RITCHIE:

Q. Did you vote for President in 1916—you were of age then?—A. Yes, sir.

Q. You voted for President?—A. Yes, sir.

Q. Do you mind telling whom you voted for then for President?—A. No; I have no objection.

Q. Who was it?—A. Wilson.

Mr. WICKERSHAM. You voted for Woodrow Wilson for President in 1916?—A. Yes, sir.

Questions by Mr. DIMOND:

Q. When did you arrive in Alaska?—A. November 1, 1917.

Q. Have you been here continuously since?—A. Yes, sir.

Q. When were you married?—A. November 1, 1918.

Q. And was your wife a resident of this place at the time you married?—A. Yes, sir.

Q. Do you know whether she had resided here for some time theretofore?—

A. Yes, sir.

Q. How long; do you know?—A. About three years.

(Witness excused.)

#### DEPOSITION OF MRS. DONALD H. TYER.

Mrs. DONALD H. TYER, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Questions by Mr. RITCHIE:

Q. You came here in the summer of 1915, or the fall of 1915, and this has been your residence from that time to this?—A. Yes, sir.

Q. What day were you married?—A. November 1, 1918.

Q. That was about four days before the congressional election last fall?—A. Yes, sir.

Q. You were a little past 21 years of age, were you not?—A. Yes, sir.

Q. You voted on the 5th of November for Delegate to Congress here in Valdez?—A. Yes, sir.

Q. Do you mind stating for whom you voted?—A. Yes, sir.

Q. You don't wish to state?—A. I refuse to state; it is my privilege.

Q. You positively refuse to state?—A. Yes, sir.

Q. If you should be satisfied that you have been incorrectly advised on that, you would be willing to state, would you not?—A. I believe Congress acted on that—whether a person had to state for whom they voted, and a person did not have to state for whom they voted.

Q. Answer the question—if you can be shown?—A. Yes.

Q. What is your objection to having it known for whom you voted—you ordinarily wouldn't care if the whole town knew for whom you voted for any office, would you— isn't that a fact?—A. Well, I consider voting like a religion, more or less your own privilege—your own affair.

Q. We all agree with you in a general way on that; at the same time, ordinarily you would be perfectly willing it should be published in the daily paper for whom you voted?—A. No, sir; I would not.

Q. Is it not a fact that you voted for Charles A. Sulzer, and that is the reason you do not care to answer?—A. I refuse to state for whom I voted.

Q. Did you vote for Judge Wickersham?—A. I refuse to answer.

Q. Did you vote for Mr. Connolly?—A. I refuse to answer.

Q. Have you been advised by Mr. Dimond or Mr. Donohoe that if you were to state that you voted for Mr. Sulzer the result might be that your vote would be taken off of the votes counted for Mr. Sulzer?—A. No, sir.

Q. You haven't been advised to that effect?—A. No.

Q. You understand the question largely in issue in this hearing and in this contest is the point that a soldier in the Army gains no residence by being stationed at any particular place: that his residence remains where he enlisted—you understand that is the contention, and the wife's residence is always her husband's?—A. I understood that.

Q. You understand, since you are married that your husband's residence is your own?—A. Yes, sir.



Questions by Mr. WICKERSHAM:

Q. You are an American citizen—A. Yes, sir.

Q. You believe in enforcing the laws of the United States honestly and fairly?—A. Yes, sir.

Q. And you don't want to see people vote illegally, whether they vote for you or against you?—A. No, sir; I certainly do not.

Q. And if it should turn out that a vote is illegal, whether there is anything wrong about it or not, you don't know any reason why it should not be known?—A. No, sir.

Q. You want to see the laws of the country enforced fairly and honestly?—A. Yes, sir.

Q. You are not ashamed of the way you voted in that election, are you?—A. No, sir.

Q. You would be ashamed if you voted for me?—A. I refuse to answer that question; I think I have the privilege of refusing to answer that.

Q. Suppose the law is the other way, wouldn't you want to obey the law?—A. I believe in obeying the law; yes.

Q. The rule of law is this: A person who votes in a country where there is a legal Australian ballot law which gives them secrecy of the ballot, they are not obliged to tell anybody. Now, if we had such a law in this Territory, you would not be obliged to tell, and probably if we did not have it and your vote was unquestionably legal and proper, you then would not possibly be obliged to tell, but where there is a question about the legality of your vote and it is shown that your vote is illegal, then you are not shielded by the law: I ask you if you were advised about the law in that respect by Mr. Donohoe or Mr. Dimond?—A. State again what law and how you mean I should have been advised.

Q. If you voted legally, then, of course, if there is an Australian ballot system law in force here which gives your ballot secrecy, you could not be made to tell—A. Yes.

Q. But we do not seem to have anything of that kind in this Territory—we do not seem to have any Australian ballot system law which gives you the secrecy that you claim?—A. I am supposed to answer because my vote is supposed to be illegal?

Q. Yes.—A. Why?

Q. Because your husband had no right to vote.

Mr. DIMOND. I object to that and advise her not to answer for whom she voted, and further advise her her vote was legal.

Mr. RITCHIE. You don't object to that statement of the law?

Mr. DIMOND. No; I do not.

Mr. WICKERSHAM. We think the law is perfectly plain that a soldier in the Regular Army of the United States, who came up here as a soldier to this Territory from the States, is not entitled to vote in the Territory for Territorial officials as long as he is in the Army, and I state to you, in the presence of your attorney, Mr. Dimond, that the Democratic committee of the Sixty-fifth Congress having the other contest in charge, held that, and the House of Representatives approved that as the law, and I think all agree that that is the law, and that your husband had no right to vote.

The WITNESS. He is not a citizen.

Mr. WICKERSHAM. Yes; he is.

The WITNESS. That is what they are trying to prove.

Mr. WICKERSHAM. No; your husband had a right to vote where he enlisted.

The WITNESS. If he took up his residence in another place he surely had a right—

Mr. WICKERSHAM. The question is, whether he can take up a residence while in the Army.

The WITNESS. A year's residence makes a citizen.

Mr. WICKERSHAM. No; not if he is in the Army. That is the sort of argument that your husband has heard and upon that sort of argument he thinks I am against the soldiers, and he is mad at me, but that is not true; I want the soldiers to obey the law, as I have to obey it. We think your husband had no right to vote in this Territory, and you married him before election day and assumed his residence as your residence.

Mr. DIMOND. We think her husband had a right to vote, and she had a corresponding right, and is not required to tell.

Mr. WICKERSHAM. So you decline to tell—

The WITNESS. I refuse to state for whom I voted.

Mr. RITCHIE. I have lived in this town for nearly 12 years, and in every election, beginning with 1908, I have been asked whether soldiers over at Fort Liscum could vote, and because the courts have universally decided whenever that question came up, and I don't know of an exception in 30 or 40 years, the courts have universally decided that a soldier does not gain a residence by going to any place, therefore I have, for a great many years, advised soldiers that they could not vote. In one or two elections when I opposed Judge Wickersham I made a strenuous effort to prevent soldiers voting, because they were voting for him. That is my conception of the law, and I don't believe anybody can charge me with saying that a soldier is not an American citizen; but that is the law, and I am amazed that anybody pretending to be a lawyer should contest it, because the courts have decided for a quarter of a century that a soldier gains no residence by being stationed at a place, either a soldier at Fort Liscum or a man in the quartermaster service stationed at Valdez. Last Congress decided that way and the Democratic elections committee unanimously voted that way, because they stated the law as I have stated it to you. I want you to understand that we are not saying that Mr. Tyer is not an American citizen, as much so as I am, but we say he had no right to vote here because his residence was in Iowa when he enlisted.

The NOTARY. When a man enlists the law reserves to him the right to vote in the place where he enlists, the same as a Congressman, when election comes they go back to their own places; they don't acquire a residence in Washington. It is the same with a soldier; he is not voluntarily stationed in the place where he goes, and he is subject to military orders and has not acquired a domicile in the general scope of the law. As far as this record is concerned, I do not know that a notary public has a right to rule on the competency or relevancy or materiality of the evidence.

Mr. DIMOND. We object to all the statements of the notary and move that they be stricken as not having a proper place in the record and not being a correct statement of the law in the case. Section 1860, Revised Statutes, provides that no soldier of the Army can vote in any Territory unless he has been domiciled there for six months in one place, and in cases such as this they take up a residence here. Residence is very largely a matter of intention, and these men that came here, even though they were in the Army, if they decided and intended to make Alaska their residence, they became residents of Alaska and were entitled to vote.

Mr. WICKERSHAM. Section 1860 of the Revised Statutes, 1878, does not read like you state at all; you have forgotten; 1860, in substance, provides that no Territory shall permit a soldier to vote in the Territory without he has been there six months and without it shall pass a law giving him that right, and it is conceded by Mr. Grigsby and everybody in this case that no such law was ever passed in this Territory, and the Territory could not pass the law, because Congress had passed a different law, so there is not question about section 1860; that was thrashed out before the committee completely.

I will ask the witness a few more questions.

Q. Mrs. Tyer, do you think it is fair for you and your husband to sit here side by side and your husband very willing to say that he voted for me because it injures me and you to refuse to say you voted for Mr. Sulzer because it will assist me? Do you think that is right?

Mr. DIMOND. We object to that, because it has a tendency to make the witness state for whom she voted, unless she wants to do that voluntarily.

Q. I ask her if she thinks that is right?

The WITNESS. Does that have any bearing on the case at all?

Mr. DIMOND. None whatever.

The WITNESS. My husband's views and mine are entirely different.

Q. I am asking you if you think that is right, as an American citizen?—A. Do I have to answer that question?

Mr. DIMOND. No.

A. I refuse to answer.

Q. Mrs. Tyer, I have been a resident of this Territory since 1900. I was in the Territory on election day, November 5, 1918, but I couldn't vote, because I was not in my own precinct. A great many people who were in the Territory at that time for 10 or 15 or 20 years, all of whom were American citizens, were refused the right to vote because they were not in their own precinct. It was a question of law.

The WITNESS. A citizen of Valdez has no right to go to Cordova and vote.

Mr. WICKERSHAM. No; and a soldier from Missouri has no right to vote until after he shall have resided in the Territory of Alaska one year after he has been discharged from the Army.

The WITNESS. He is not from Missouri.

Mr. WICKERSHAM. From Iowa; from anywhere in the States. If he had enlisted in Alaska and was a resident of Alaska at the time of his enlistment and in his own proper precinct he would be entitled to vote, but the law is technical, and don't permit persons to vote outside of their own precinct; that is the point we are making against your husband.

The WITNESS. I understand the question.

Mr. WICKERSHAM. I appeal to you as an American citizen and as a woman of good principles who wants to do right not let your husband sit there and testify against me—the truth probably—and you sit by his side and refuse to testify when it would assist me. I will ask you to answer the question.

A. My husband voting and mine are different things; I never even asked him anything about it.

Q. You heard him testify?—A. I did.

Q. You know, of course, that his vote now will be counted as against me and you know that your vote, if you voted for Mr. Sulzer, would be counted the other way; it would be fair to testify and I appeal to your sense of fairness. I ask you if you will not testify?—A. I object to testifying.

Q. Your father has been very strongly against me all the time?—A. I believe my father has told you why; it is a question of trying to run a Democratic or Republican paper; he can give you his views.

Q. He has a right to do as he pleases, but he is very much opposed to me, and you heard that a great deal from him and other people around here?—A. Yes, sir.

Q. And this prejudiced you so you have not been friendly to me?—A. I don't know.

Q. Politically, I mean?—A. No, sir.

Q. You have not been friendly to me politically?—A. My friendliness or unfriendliness hasn't been discussed; hasn't anything to do with it.

Q. You realize it does have something to do with it; don't you think it has?—

A. Friendliness or unfriendliness?

Q. Yes; in a political way?—A. No, sir.

Q. And you decline to tell whom you voted for?—A. Yes, sir.

Q. You didn't vote for Mr. Connolly, the Socialist candidate?—A. I answered that before.

Q. You didn't vote for me?—A. I refuse to answer that.

Q. And you refuse to say whether you voted for Mr. Sulzer or not?—A. Yes.

Q. Why?—A. Do I have to tell why I refuse to answer?

Mr. DIMOND. No.—A. Then I refuse to answer the question.

Q. I wanted you to say, if you could, as an American citizen why you think you ought not to tell?—A. I refuse to answer as having nothing to do with the case.

Mr. WICKERSHAM. Mr. Notary Public, I ask to have the matter postponed until next Thursday. I am going to serve subpoenas on these other people to-day, and I want Mrs. Tyer present at that time; she might conclude in the meantime to testify. I may want to take some action under the statute to require her to testify. As an American citizen she has a duty to perform, and I think she ought to perform it like an American citizen. I want an opportunity to consider the matter and ask to have the matter postponed until next Thursday.

Mr. DIMOND. I object to any continuance of this matter at all. It is known that Mr. and Mrs. Tyer are ready to go out on the next boat, and this hearing was had in advance so they might not be discommoded. There is no reason why this examination can not be completed now; in fact, it is completed, and it is merely to harass these witnesses that this continuance is asked.

Mr. WICKERSHAM. We are here for the purpose of trying to get the truth out of these people and are going to get it if it is possible to get it, notwithstanding the advice that has been given to these people not to testify.

Mr. DIMOND. It is an abuse of process to have a witness in court one day and the next day and the next day, when the thing could be cleaned up in one day.

Mr. WICKERSHAM. It would be if the witnesses testified. They will testify when they can testify against me, but when they have to testify the other way, they won't testify.

Mr. DIMOND. We object to that statement.

Mr. WICKERSHAM. I will serve a subpoena on Mrs. Tyer immediately, requiring her presence next Thursday, and I am going to serve the subpoenas on the other witnesses to appear at the same time. Of course, under the statute, as I said, it may be a service of this kind is probably not good except upon five days' notice.

Mr. DIMOND. They waived that.

Mr. WICKERSHAM. I choose to take my own course in that matter.

Mr. DIMOND. You have already chosen; I want the testimony.

Mr. RITCHIE. Our position is this: We are entitled to know for whom these soldiers voted and then the House of Representatives can pass on the question whether or not their votes were legal. If your interpretation of the law is correct, it won't hurt Mr. Grigsby's contest a particle if it should appear that all these 15 or 16 young men of the Signal Corps and Quartermaster's Department voted for Mr. Sulzer, to frankly say so; if they had the right to vote for Mr. Sulzer, it would help Mr. Grigsby's contest. The House of Representatives is going to pass on that.

Mr. DIMOND. I have not advised any of the witnesses not to tell, but any witnesses that have asked me whether they are compelled to tell under the circumstances—I have advised Mrs. Tyer and, I believe, Mr. Tyer; advised them all that they are not required to tell, and I am very positive that that is the law—that they are not required to tell for whom they voted. I think we have here a substantial Australian ballot. It must be proven that they are not entitled to vote, and even then it is doubtful whether they can be compelled to tell for whom they voted. I believe they were entitled to vote and are not compelled to tell for whom they voted. I so advised them and shall so advise them in the future.

Mr. RITCHIE. I have not a shadow of doubt that they believed they had a right to vote, but now I am putting this question to Mrs. Tyer: Suppose it should prove that you are mistaken about the law, that you did not have a right to vote, don't you think the Congress of the United States is entitled to know for whom you voted, so they can take your vote off the total of the person for whom you voted?

The WITNESS. If that law is proven to be correct, yes.

Mr. RITCHIE. All we are asking you to do is to say for whom you voted, and if the House of Representatives says you had the right to vote, whether for Mr. Connolly or Mr. Sulzer or Mr. Wickersham, your vote will be counted for that person, but if the House of Representatives says you did not have the right to vote, they will throw out that vote; that is all we are asking, for you to state for whom you voted, and let Congress pass on the question of the vote, of the legality of the vote.

Mr. WICKERSHAM. I want to notify Mr. and Mrs. Tyer now that I shall expect them to be here next Thursday; I am going to apply to the commanding officer to keep him here until this matter is settled.

Mr. TYER. Haven't I given my testimony?

Mr. WICKERSHAM. Not as fully as I desire it shall be done.

Mr. DIMOND. The only way, then, is for them to come in and testify they voted for Mr. Sulzer; if they state they voted for Mr. Wickersham, they must be harassed and hounded around. If they say they voted and refuse to state for whom they voted, they must be pursued and brought into court on various successive days, and I dare say the only way we can clean up this testimony within the 40 days is for these witnesses to come in and say they voted for Mr. Sulzer during the year 1918. I object to this whole proceeding, the latter part of it, whereby these witnesses are to be brought into court again, as an abuse of judicial process. I have been informed that you told men under similar circumstances, Mr. Ritchie, that they were entitled to vote.

Mr. RITCHIE. I never did. I made a fight at the polls when I was supporting Gilmour against Wickersham—I challenged several voters myself from Fort Liscum because they were going to vote for Wickersham.

Mr. WICKERSHAM. Mr. Dimond, down at Seattle some time ago we took the testimony of Capt. Faust, Mr. Van Wyck, Mr. Mooney, and two more soldiers, all of whom, as you know, took the same position that you are now taking, but on further advice they all testified down there very fully and very frankly. I want you to know that.

Mr. DIMOND. Yes; I am not advising them not to testify; I am advising them that they don't have to testify; that that is a matter of personal privilege with them.

Mr. WICKERSHAM. Then if you will have this matter postponed until next Thursday—

Mr. DIMOND. I object to any continuance of the examination of these particular witnesses.

Mr. WICKERSHAM. The notary public understands that we haven't the testimony of this lady; she has refused to testify?

Mrs. TYER. Why are you keeping my husband, then?

Mr. WICKERSHAM. I want her to testify to the truth, and the whole truth, as she said she would.

Mrs. TYER. Why are you keeping my husband?

Mr. WICKERSHAM. Your husband is being kept because of the resolution of the House of Representatives, which requires the assembly of all these soldiers here for the purpose of testifying.

Mr. TYER. Haven't I testified?

Mr. DIMOND. You and your husband are being kept in order to harass you.

Mr. WICKERSHAM. I want this woman's testimony and I am going to have it.

Mr. DIMOND. You go ahead and get it; I object to any further delay.

Mr. WICKERSHAM. You can't violate the law with impunity.

Mr. DIMOND. I object to that statement; there is no violation of the law on my part.

Mr. WICKERSHAM. Soldiers ought to be the first ones to walk up and bravely and courageously tell the whole truth.

Mr. TYER. I have told the whole truth, and I object to your saying that probably I told the truth, sir.

Mr. WICKERSHAM. I say you probably told the truth; I have no doubt about it. This place is becoming a menace to civilization almost.

Mr. DIMOND. You have become a worse menace.

Mr. WICKERSHAM. The House of Representatives don't think so.

Mr. DIMOND. All Alaskans do, anyhow.

Mr. WICKERSHAM. Even a Democratic Congress doesn't think so. I ask for a postponement.

Mr. DIMOND. I object to any postponement on the ground that this examination has been gone into very completely and very fully.

The NOTARY. I will render a decision at 2 o'clock.

2 P. M.

The NOTARY. Have you any further questions to ask either of these witnesses at this time?

Mr. RITCHIE. No; I have nothing to ask.

The NOTARY. I feel constrained to hold that this particular examination is closed, as to these witnesses, if there are no further questions to ask them, leaving the parties to such subsequent procedure as they may take in regard to any future evidence.

(Witness excused.)

# MORNING SESSION, THURSDAY, AUGUST 28, 1919.

The testimony of certain witnesses to be used as evidence in behalf of the contestant in the contest of James Wickersham v. George B. Grigsby for the office of Delegate in Congress from the Territory of Alaska was taken before J. L. Reed, a notary public, on the 28th day of August, 1919, beginning at 10 o'clock a. m., pursuant to a statement made in the opening hearing for the taking of depositions before the same officer on the 23d day of August, 1919; there being present James Wickersham, the contestant, and his counsel, E. E. Ritchie; the contestee, George B. Grigsby, being represented by his agent and counsel, A. J. Dimond.

Whereupon the following proceedings were had:

## DEPOSITION OF E. E. RITCHIE.

E. E. RITCHIE, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

My name is E. E. Ritchie. I am a practicing attorney of the town of Valdez and have been for nearly 12 years, and have resided in Alaska for over 14 years. In the fall of 1918 for two or three weeks before the election, which occurred



on the 5th of November, I had charge in a general way of what Republican campaign there was in the town of Valdez, and in so doing it was important for me to learn as far as I could how various people were going to vote. I ascertained from general conversation with people around town and from statements of at least half of the members of the Signal Corps themselves and quartermaster's department here, soldiers, that nearly all, if not all of them, intended to vote for Sulzer. Six or eight or ten of the boys were eating at the same restaurant I was, and it was talked from day to day. I talked with them about it, and they all stated that they were hostile to Judge Wickersham; that they were all for Sulzer, or nearly all of them.

That was also common talk around town. I couldn't specify any particular man who I would say positively told me that the boys were nearly all for Sulzer, because there were 8 or 10 of them there eating every day, and I couldn't say positively as to any one. If I remember, though, talking on the subject of the election frequently, several times at least, to Hopkins, Harry Shutts, Ike Beal, and Aleck Katt, and two or three others; but I couldn't say positively that any one of them made any distinct statement as to that—it was the general talk among them. The only two men whom I can distinctly and positively say told me that the Signal Corps and quartermaster crowd had been canvassed and that nearly every man would be for Sulzer was Richard H. L. Noaks, who is a very close friend of mine and was around my office a great deal. He told me positively that nearly all of the Signal Corps and quartermaster boys were going to vote for Sulzer. I expressed in one conversation with him not exactly surprise, but just commented on the fact that a few years ago nearly all the Army boys here were for Wickersham, and he said the reason of it was they were very hostile to Wickersham because of the exceptions he had taken to the soldier vote in the election of 1916, and he told me that not more than one or two, if any, of the boys would vote for Wickersham.

The only other person that I can distinctly specify as having told me is Frank J. Hayes, a Democratic politician, stenographer in the office of Donohoe & Dimond. He and I are pretty warm friends, have been for years, and we talked politics almost every day in his office, in my office, on the street, in the newspaper office, and probably the pool rooms, and Mr. Hayes told me repeatedly that they expected to get that entire vote—he told me that directly. He also told me—I think it was the afternoon before election in the office of Donohoe & Dimond—that he couldn't figure where we were going to get any votes, except the small handful of men who were working in the Republican club and a few of the old Wickersham roughnecks. I will state further that we made, as politicians do, a list of the votes we expected to get in the election of November 5—those that were promised to us and those we were positive of—and we didn't have on that list the name of any enlisted man either in the Quartermaster Department or the Signal Corps for the reason that all the information that any and all of us could obtain was that they were almost to a man hostile to us.

I was present as counsel for Judge Wickersham at the hearing before J. L. Reed, notary public, on Saturday, August 23, in which evidence was being taken in this contest of Wickersham v. Grigsby. I heard the examination of Mrs. Tyler by Judge Wickersham, and if I am any judge of courtesy and the kind of conduct that is due from a man to a woman, there was nothing discourteous in any question asked by Judge Wickersham.

Mr. DIMOND. I object to this statement on the ground that it is incompetent, irrelevant, and immaterial and on the ground that it has no bearing upon the question who was elected in the year 1918, whether Wickersham or Sulzer was elected.

The NOTARY. All these objections go into the record, and I understand the House will decide on the objections.

The WITNESS (continuing). Or in his manner, as far as I noticed at the time. Mrs. Tyler's husband was sitting beside her all the time and he took no exception to any statement or question made by Judge Wickersham, or anything in his manner. Judge Wickersham and Mrs. Tyler got along very well together and were smiling at each other, at least half the time, until Judge Wickersham stated that he would have Mrs. Tyler subpoenaed to appear here on this date with other witnesses. Mrs. Tyler then became very much irritated and stated that they had made all their plans to go out on Sunday night and displayed considerable anger over the situation, which I thought was natural under the circumstances and was not surprised at, but even then there was no discourtesy shown toward Mrs. Tyler so far as I could notice, if I am any judge of such matters.

Mr. DIMOND. We object to all the statements of the witness concerning Mrs. Tyer on the ground that they are incompetent, irrelevant, and immaterial, and move it be stricken from the record.

Mr. RITCHIE. That is all I desire to say.

Questions by Mr. DIMOND:

Q. I think you said in the year 1918 the Signal Corps boys, nearly all, so far as you are aware, intended to vote for Mr. Sulzer, or you had received information that they probably would vote for Mr. Sulzer, and that such had not been the case theretofore, in the preceding elections. Now, in that connection is it not a fact that these Signal Corps boys who have lived here in the town of Valdez have voted in all of the elections since and including 1912?—A. I think they have.

Q. And prior to the year 1918 a great many of them, probably a majority, were generally known as supporters of Wickersham, were they not?—A. Up to and including 1914 they were; I think in 1916 they were divided somewhere near half and half.

Q. In 1914 it was generally understood that nearly all of them supported Judge Wickersham?—A. I think all except three or four.

Q. These men while they were in the Army have lived in the town of Valdez—that is, they don't live at any military post?—A. Those in civilian employment live here in town—that is, the Signal Corps operators and the quartermaster employees live in town.

Q. And a number of them are married and have their wives here and have their homes here—that is true?—A. Yes, sir.

Q. And they don't live at any military barracks or upon any military reservation?—A. They don't live together.

Q. As soldiers?—A. No.

Q. Did you ever know of any objection being made to their voting prior to the year 1916 by anybody?—A. I have no recollection of any.

Q. And you keep pretty good track of political matters here, and if there had been any serious protest you would probably have known of it?—A. I think so.

Mr. DIMOND. That is all.

Mr. RITCHIE. I want to make an additional statement. Although I have been familiar for a great many years with the law that an enlisted soldier around a military barracks, or one even claiming a residence outside the barracks, as long as he was merely stationed at a military post, could not vote, I was under the impression until 1912 or perhaps a little after, that a soldier in civilian employment, like these Signal Corps operators, had a right to vote if he was not on a reservation, but I was told by a lawyer here in the campaign of 1912 or a little bit after, that I was mistaken about that, and I looked it up and ascertained the fact that they were on the same basis, so far as their residence is concerned, under the law, as an other soldier, but I never objected to their voting for the reason that I thought it was not good policy, although for several years they were voting, many of them, against the way I was.

Q. At that time you opposed Wickersham?—A. Yes; I opposed Wickersham in three elections and in at least two of those elections, nearly all the Signal Corps boys were voting for him and I didn't object, although I believed at the time that their votes were illegal, but I didn't think it good policy to object to their voting.

Q. As a matter of fact you never knew of anybody making any objection?—A. I have no recollection of any. I think myself almost everybody was of the opinion they had a right to vote.

(Witness excused.)

E. E. RITCHIE.

#### DEPOSITION OF E. P. CASHMAN.

E. P. CASHMAN, being first duly sworn, testified as follows:

Direct examination by Mr. RITCHIE:

Q. Your name is E. P. Cashman?—A. Yes, sir.

Q. You have resided in and around Valdez for a great many years?—A. Yes, sir.

Q. Where were you residing on the 5th of November, 1918?—A. At what they call the Granby, across the bay.

Q. You had been there for 30 days or more at that time?—A. I had been there since the 15th of January, 1918.

Q. You have a family, a wife and children?—A. Yes, sir.

Q. Did you vote at the election of November 5, 1918, for Delegate to Congress?—A. Yes, sir.

Q. Will you state for whom you voted?—A. Sure.

Q. For whom?—A. Judge Wickersham.

Q. Are you acquainted with a great many of the soldiers there at the post?—A. No, sir; I was not, at that time.

Q. I will ask you this question, do you know of any soldiers who resided in the Valdez Bay voting precinct, off of the military reservation—did any soldiers reside in the Valdez Bay voting precinct excepting those who were on the Fort Lisicum Reservation?—A. No, sir.

Q. You were one of the judges at that election; were you?—A. Yes, sir.

Q. Do you know Fred C. Hartman?—A. Yes, sir.

Q. Do you know where he resided?—A. Well, he was living in Valdez until they took him over to the post.

Q. He was a soldier at the post?—A. Yes, sir.

Q. A conscripted man at that time?—A. Yes, sir.

Q. Do you know whether he had ever resided there before he was conscripted, had ever resided across the bay?—A. No; he belonged here in town.

Q. You had known him a good many years?—A. Yes, sir.

Q. He always made his headquarters here in town?—A. Yes, sir.

Q. Do you know C. A. Edmund?—A. No, sir.

Q. Do you know H. M. Lawrence?—A. No, sir.

Q. Do you know E. C. Reuter?—A. No.

Q. Do you know Jerry T. Allen?—A. No.

Q. Do you know Pete Tessitore?—A. No.

Q. Do you know John Turner?—A. No.

Q. Do you know Charles Wyatt?—No.

Q. Do you know John D. Chamberlain?—A. No.

Q. Do you know Frank Forker?—A. No, sir.

Q. Do you know John T. McEvoy?—A. No, sir.

Q. Do you know Patrick McDermott?—A. No.

Q. Do you know Frank Poore?—A. No.

Q. Do you know Claude H. James?—No.

Q. Do you know Eric Myhberg?—A. No.

Q. A. J. Penttinen?—A. No.

Q. Edward P. Cashman you know. Do you know Lyle D. Brown?—A. No.

Q. A. E. Rucker?—A. Yes; I know him.

Q. How long have you known A. E. Rucker?—A. Five or six years.

Q. Do you know where his residence had been during most of that time?—A. I always understood it was Valdez.

Q. Did he ever reside over in the Valdez Bay precinct, across the bay, except when he was stationed at the post?—A. Not to my knowledge.

Q. You know, do you, that Mr. Rucker has been absent at the University of California a good deal of the time for the last few years?—A. Yes; he was going to school there.

Q. And when he was home around Valdez where did he live?—A. With his mother, I think.

Q. And his mother resides in the town of Valdez?—A. Yes, sir.

Q. Do you know Sam Campbell?—A. Yes, sir; he is engineer on the Government boat.

Q. Is he a soldier?—A. I couldn't say whether he is a soldier; he is a civilian who has been on the boat six or seven years.

Q. Do you know Joseph Newman?—A. Yes, sir; he is fireman on the boat.

Q. Do you know whether he is a soldier or not?—A. I do not.

Q. Do you know E. A. Johnson?—A. No, sir.

Q. Do you know R. B. Hamilton?—A. No.

Q. Fred C. Bretherson?—A. No.

Q. A. J. Davis?—A. No.

Q. Mrs. James W. Johnston?—A. No.

Q. James W. Johnston?—A. No.

Q. George F. Baker?—A. No.

Q. W. S. Beck?—A. Yes; I know Beck.

Q. What is he?—A. He is a civilian employed over at the post.

Q. Has he been there for some time?—A. Yes, sir.

Q. Several years?—A. Yes; quite a few years.

Q. Do you know H. T. Anderson?—A. No.

Q. William N. Hearing?—A. No.

Q. Do you know Bruce Rider?—A. Yes, sir.

Q. Has he any relatives or family here that you know of?—A. Yes, sir; he has a mother in town.

Q. In Valdez?—A. Yes, sir.

Q. Have they lived here for several years?—A. Yes, sir.

Q. Do you know where Bruce Rider has been living the last few years?—A. I should say he was living here in Valdez until he was conscripted over there.

Q. He was taken over there as a conscripted soldier last year?—A. Yes, sir.

Q. Do you know P. S. Truckey?—A. No.

Q. Do you know B. Presley?—A. No.

Q. Do you know W. T. Stuart and Mrs. E. P. Cashman?—A. Yes, sir.

Q. Was Stuart living over there at that time?—A. He and his wife were running the power plant there for the electric light people.

Q. And Mrs. Cashman was living with you?—A. Yes, sir.

Q. Do you know of any civilians who voted at that election except yourself, Mrs. Cashman, W. T. Stuart, Sam Campbell, W. S. Beck, and Joe Newman?—A. That is all.

Q. All the rest of them, except those, were conscripted soldiers over there?—A. Yes, sir.

Q. Do you know how long they had been there?—A. I couldn't say that, but I understood that they were there over 30 days and were allowed to come over there to vote.

Q. They came during the summer and early fall?—A. I couldn't say; they said they had been there 30 days—that is the reason they went over to vote.

Q. The first conscripted men went there in June—about that time?—A. I didn't pay much attention to what time they came.

Mr. RITCHIE. That's all.

#### Questions by Judge WICKERSHAM:

Q. These men were not farmers or business men residing there—were any of these men engaged in any kind of business there?—A. Not around the post; I understood they were just conscripted men.

Q. Have they ever been engaged in any kind of business or employment there?—A. I don't understand it so.

Q. They were all conscripted soldiers at the post?—A. Yes, sir.

#### Questions by Mr. DIMOND:

Q. Do you know whether these men had been drafted in Alaska or not?—A. I understood they were, I wouldn't say for certain, but that is what I understood from the talk and what they told me.

Q. They all came there from different parts of this division?—A. Yes, sir; I understood most of them came from Kennecott and McCarthy.

Q. And a few from Valdez, like Rucker and Rider and Hartman?—A. Yes, sir.

Q. Rucker and Rider and Hartman had all resided in Valdez to your knowledge for several years prior to 1918, to election day?—A. Yes, sir.

Q. The town of Valdez is in a separate voting precinct from the Valdez Bay precinct?—A. So I understand.

#### By Mr. RITCHIE:

Q. The Valdez Bay precinct, the voting place, was across the bay from the town of Valdez?—A. What they call the Granby mine.

Q. The Granby mine is across the bay from Valdez, and the Fort Liscum military reservation or post is across the bay?—A. Yes, sir.

Q. And these men were from Fort Liscum?—A. Yes, sir.

Q. The Valdez Bay precinct embraced the territory around Valdez Bay, except the incorporated town of Valdez?—A. Yes, sir.

(Witness excused.)

EDWARD P. CASHMAN.

#### DEPOSITION OF MRS. E. P. CASHMAN.

Mrs. E. P. CASHMAN, being first duly sworn, testified as follows:

#### Examination by Mr. RITCHIE:

Q. Your name is Mrs. E. P. Cashman?—A. Yes, sir.

Q. How long have you lived in Alaska?—A. Twelve years.

Q. Where were you living on the 5th day of November, 1918?—A. Over at the Granby.

Q. How long had you been living there?—A. Since the 30th of August.

Q. You are the wife of E. P. Cashman?—A. Yes, sir.

Q. Did you vote at the election of November 5, 1918, for Delegate to Congress?—A. Yes, sir; I did.

Q. For whom did you vote?—A. That I can't remember. I didn't pay much attention to it and can't say for certain whether I voted for Mr. Wickersham or Mr. Sulzer. I can remember the last election, but I can't remember that. I have tried the last couple of days to see if I could remember, but I didn't pay much attention to it. I know I went down and voted.

Q. Did you talk to Mr. Cashman about voting beforehand?—A. I did not.

Q. You just went to the polls?—A. I just went to the polls and took a ticket and voted.

Q. Are you acquainted with these soldiers; do you know any of them?—A. No; except Rucker and Rider.

Q. Do you know where they had lived prior to going into the military service at the post?—A. Yes, sir.

Q. Where?—A. Valdez.

Q. You had been well acquainted with them for several years?—A. Yes, sir. (Witness excused.)

MRS. E. P. CASHMAN.

DEPOSITION OF JAMES M'HIE.

JAMES M'HIE, being first duly sworn, testified as follows:

Questions by Mr. RITCHIE:

Q. Your name is James McHie?—A. Yes, sir.

Q. How long have you lived in Valdez?—A. About 18 or 22 years; 18 years steady, you might say.

Q. Were you a resident of the town of Valdez, and a legal voter therein, on the 5th of November, 1918?—A. I was.

Q. Did you serve as one of the judges of election on the 5th of November, 1918?—A. I did.

Q. From your length of residence here you are pretty well acquainted with the people of this town, are you?—A. Yes, sir.

Q. It is not a large town?—A. No.

Q. Were you one of the judges at the primary election held in the Territory, and at Valdez, on the 30th of April, 1918?—A. Yes, sir.

Q. Were you acquainted with many or most of the Signal Corps and Quartermaster Department soldiers stationed in Valdez at that time?—A. I was, and I am.

Q. At that election, when tickets were given to persons to vote, were they all on one ballot or were they separate ballots for persons of the different political parties?—A. Separate ballots.

Q. That is according to the Territorial law—the names of Republican candidates were printed on the Republican ballot, Democratic candidates on the Democratic ballot, and the Socialist candidates on the Socialist ballot?—A. Yes, sir.

Q. Each a separate ballot?—A. Yes, sir.

Q. And what was the custom when a voter came up to the judges and asked to vote?—A. I asked him what ticket he wanted—Democratic, Republican, or Socialist.

Q. And on his stating what he wanted—A. On his stating what he wanted he got the ticket.

Q. Did some of the Signal Corps and quartermaster employees vote at that election?—A. They did.

Q. Did Mr. Noaks vote—Mr. Richard H. L. Noaks?—A. Yes, sir.

Q. Was he a member of the Signal Corps?—A. Yes, sir.

Q. Do you know what ticket he voted?—A. Democratic ticket.

Q. The record shows that—it is shown by the certified record. Is this, as far as you are able to determine, a substantial copy? Do you believe it to be a true copy of the list of voters who voted at that election [handing book to witness]?

Mr. RITCHIE. We will offer that in evidence after you have examined it, Mr. Dimond.

Mr. DIMOND. I don't think I have any objection to it; it is certified by the clerk of the court.

(The book is offered in evidence, marked "Exhibit A"; is attached hereto and made a part hereof.)



Q. Can you say whether or not the soldiers who voted here asked for a Democratic or Republican or Socialist ticket?—A. A Democratic ticket.

Q. Did any of them ask for a Republican ticket?—A. No, sir.

Q. Did any of them ask for a Socialist ticket?—A. No, sir.

Q. Who was the Democratic candidate at that time?—A. Charles A. Sulzer.

Q. Do you know who was the Republican candidate at that time?—A. Judge Wickersham.

Q. This was at the primary we are talking about?—A. Yes, sir; Sulzer and Maloney, I think, were the Democratic candidates.

Q. Sulzer and Maloney were the Democratic candidates and Judge Wickersham was the Republican candidate?—A. Yes, sir.

Q. Did you notice any of the Signal Corps boys, one or more of them, taking an active part in getting voters out to vote at that primary?—A. Yes, sir.

Q. Who?—A. Noaks.

Q. Richard Noaks?—A. Yes, sir.

Q. Did you hear him make any statements at that time?—A. I heard him say, "I guess we will carry the day," and I says, "Go to it."

Q. Did the wives of any of those soldiers vote?—A. Yes, sir.

Q. Do you remember any one particularly?—A. I don't particularly; I noticed different ones.

Q. Are you acquainted with Mrs. Faust, the wife of Capt. Faust?—A. Yes, sir; she did.

Q. What kind of a ticket did she vote?—A. A Democratic ticket.

Q. Do you know Mrs. W. J. Cuthbert?—A. Yes, sir.

Q. What ticket did she vote? Did she vote?—A. I think she did.

Q. What ticket did she vote?—A. Democratic ticket.

Q. Did Mrs. Donald H. Tyer vote?—A. She did.

Q. She wasn't Mrs. Tyer at that time—did Miss Ruth Selby vote?—A. She did.

Q. At the election did Mrs. Tyer—she was then Mrs. Tyer—November 5, 1918?—A. She did.

Q. Did Mrs. Cuthbert vote?—A. She did.

Q. Mrs. Faust?—A. Yes, sir.

Q. Now did you hear about the time of the election or for a little time before any statements as to how the Signal Corps men were going to vote?—A. I heard it remarked in the buffet that they were going to vote for Sulzer.

Q. Did you hear it more than once?—A. I heard it two or three times.

Q. Did you hear a general declaration that they were all going to vote for Sulzer?—A. Not all but they said the Signal Corps bunch, they put it in that way—the Signal Corps bunch were going to vote for Sulzer.

Q. Did you talk to any of the boys themselves about it or hear them talking?—A. No; I did not.

Q. Do you know Mr. C. W. Mossman?—A. I do.

Q. He is a deputy United States marshal now and has been for several years?—A. Yes, sir.

Q. How long have you known him?—A. For 8 or 10 years.

Q. Was he a resident of the town of Valdez on the 5th of November, 1918?—A. No, sir.

Q. Do you know where he had been residing for some time before that?—A. Anchorage.

Q. Do you know Mrs. Mossman, his wife?—A. I do; that is I know her as his wife, that is all.

Q. Had she been living in the town of Valdez for some time before that?—A. No, sir.

Q. They voted at the election, did they not?—A. They did.

Q. To refresh your memory—I will ask you if you have any recollection that I personally challenged the vote of Mr. and Mrs. Mossman in the forenoon of election day—do you remember that?—A. I do.

Q. On the ground that they resided at Anchorage?—A. Yes, sir.

Q. And after some discussion of the law and calling the attention of the election board to the fact that the Territorial practice or law allowed any person qualified to vote in the Territory to vote in any precinct in his judicial division, but the congressional law governing the election for Delegate required each person to vote in his own precinct where he had resided for at least 30 days before the election, that the board agreed they would follow the Territorial law and allow everybody to vote that resided in the third division; is that correct?—A. Yes, sir.

Q. And it is true that I thereupon withdrew my objection, and Mr. and Mrs. Mossman voted?—A. Yes; you did, and we allowed them to vote.

Q. Was there any question raised about any other voters from out of town?—A. One man, I forget his name now, from the Kuskokwim, I think it was. He was a big fellow. He made a kick, but I wouldn't let him vote, and he came back, and when we decided to let Mossman and Mrs. Mossman vote—they weren't residents of Valdez—we said, this fellow is in the division and he isn't a resident here, but if we let them vote, he is entitled to vote; and he came back in the afternoon and voted.

Q. Do you remember a colored man named Marshall, from Anchorage?—A. Yes, sir.

Q. Did he vote?—A. Yes, sir.

Q. The question came up about his residence in Anchorage at the time?—A. Yes, sir.

Q. And he was asked about it?—A. Yes, sir.

Q. And said he resided at Anchorage?—A. Yes, sir.

Q. Do you remember a man named McCullough?—A. I think that was the Irishman; I don't know.

Q. If you don't remember, I won't ask you to testify.—A. No; I do not.

Mr. RITCHIE. That is all.

#### Questions by Mr. Diamond:

Q. Do you recollect the approximate number of men and women, the approximate number of voters, who were not residents of this precinct, the Valdez precinct, who voted at the 1918 election? Were there any others except those that Mr. Ritchie has called your attention to? I refer to the November 5, 1918, election.—A. No; I don't know any others; I remember Mossman and his wife and this fellow and the colored man.

Q. After Mr. Ritchie withdrew his challenge to the votes of Mr. and Mrs. Mossman, were any of those other people challenged after that by anybody?—A. No.

Q. You and the other members of the board simply decided it and ruled that all voters otherwise qualified who were residents of the division could vote at this precinct, although they had not been here 30 days?—A. That is what we did.

Q. And that was the universal policy followed at that election?—A. Before we made any rules at all we were going to abide by the congressional law; I said, we were going according to the law, and anyone who wasn't entitled to vote wasn't going to vote. The other two judges, both Democratic judges, of course, they said, all right, and when I challenged this fellow, I wouldn't take his vote, this Irishman, why they didn't know whether it was right or not. I said, you have got to come to an understanding now; either abide by one law or the other and all stand together, take one course or the other, and we read the instructions over and I said, what are we going to do, and in came Mr. and Mrs. Mossman, and Mr. Ritchie got up and made his talk, and we let them vote. Then I said, according to that, if Mossman and Mrs. Mossman can vote, then this fellow that didn't vote is entitled to vote just as much as they are, and then I said, there has got to be an understanding what we are going to do, let them all vote or challenge them.

Q. And as a result they all did vote?—A. Yes; as a result they all voted.

#### Questions by Mr. Ritchie:

Q. As a matter of fact, the board, after some discussion, after my statement, came to that agreement?—A. Yes, sir.

Q. And then after they did agree that they would let everybody who was entitled to vote in the third division vote here, I withdrew the challenge to Mr. and Mrs. Mossman?—A. Yes, sir.

Q. Do you remember how many nonresidents of the precinct voted?—A. Yes. There was Mossman and his wife and this Irishman and Mrs. James Mitchell.

Q. And Jim Mitchell?—A. No; I don't think Jim was here.

Q. The record shows James Mitchell voted.

The WITNESS. They lived down here at Gold Creek.

Q. How long had they lived there?—A. They had lived there for three or four years, and their voting place should be over at the Granby.

Q. If the record shows that Mitchell did vote at this election, then your memory is at fault?—A. Yes; I don't remember whether he voted or not, but I know she voted at this election sure because there was an argument

came up, and I said she wasn't a resident of town, and she said she was entitled to vote here, and she finally voted.

Q. Do you know Bruce Rider?—A. Yes, sir.

Q. Have you known him for several years?—A. Three or four years.

Q. Do you know whether he was an enlisted soldier over at Fort Liscum last fall, a conscripted soldier?—A. Yes, sir.

Q. Where was his home for several years prior to that time?—A. He has always made his home with his mother and father over here and at the hotel, when they had the hotel here.

Q. That is, a home in town? They have a home in town?—A. Yes, sir.

Q. And have had for several years?—A. Yes, sir.

Q. That is, in the town of Valdez?—A. Yes, sir; in the town of Valdez.

Q. Do you know A. E. Rucker?—A. Yes, sir.

Q. Do you know where his home has been for several years?—A. With his mother over here.

Q. Where does his mother live?—A. She has a boarding house up here.

Q. In the town of Valdez?—A. In the town of Valdez.

Q. And had she resided here several years at this time?—A. Yes, sir.

Q. And has Mr. Rucker resided with his mother whenever he has been at home?—A. Yes, sir.

Q. Except when he was over at Fort Liscum?—A. Yes, sir.

Mr. RITCHIE. That is all.

(Witness excused.)

JAMES MCHIE.

#### DEPOSITION OF E. E. RITCHIE.

Mr. RITCHIE. I have been sworn and desire to make an additional statement.

E. E. RITCHIE, recalled:

I have known C. W. Mossman since I came to Valdez nearly 12 years ago. He resided in this town continuously until probably a couple of years ago, when he went to Anchorage as deputy marshal in charge there, and I have been in Anchorage twice or three times, twice at least in 1917 and 1918, and found Mr. Mossman residing there in charge of the marshal's office in the town of Anchorage. That I was there last August and was at the house of Mr. and Mrs. Mossman several times, and that was their residence and it was well understood. At the time I challenged their votes here, Mrs. Mossman didn't say anything. Mr. Mossman didn't claim to be a resident of Valdez, but claimed the right to vote here under the territorial law because he lived in this division.

I am well acquainted with Mr. A. E. Rucker and Bruce Rider, and have been for at least six or eight years, since both of them were boys in school. Mr. Ruckers' mother has resided here during all that time and he has resided with her in the town of Valdez except when he has been absent at the University of California at Berkeley, as he and his mother have stated to me, until he was inducted under the conscription law into the service in the summer of 1918, when he was over at the post from that time until he was discharged in the winter. I saw him frequently in town and his only business at the post was as a conscripted soldier there.

Bruce Rider also has always made his home with his parents in this town, except he has been away a good deal; he has run on launches and for a while worked at Latouche, but his parents resided last year at the time of the election and for quite a time before in Valdez, and he made his home with them when he was in town, except when he went over to Fort Liscum as a soldier. Neither of the boys ever lived or made their home in the Valdez Bay precinct except when they were at Fort Liscum as conscripted soldiers while they were in the service there.

I have known James E. Mitchell and Mrs. Mitchell for somewhere from 7 to 10 years; they used to live in the town of Valdez, but they have been living down at Gold Creek, about 6 or 7 miles west or southwesterly of town; made their home there for at least two or three years and I think longer. They both voted in the precinct here, and I was present when they voted; happened to be standing around the polls and distinctly remember, because I questioned somebody as to how they were going to vote.

In the list of voters in the town of Valdez I find No. 78 at the election of November 5, 1918, Mrs. C. O. Brauer. Mrs. Brauer is the wife of an employee of the Granby mine, who then and for two or three years before had resided at the mine—not at the dock on the beach, which would be the same thing, but

resided at the mine—about 5 or 6 miles from Valdez Bay and the Valdez Bay voting precinct. It is further my opinion that Mrs. Brauer is a Canadian, because they came from Canada here. Mr. Brauer I think yet is in the employ of the company, but Mrs. Brauer has gone to Canada where her husband expects soon to follow; whether she was an American citizen or not, she was not a resident of the town of Valdez at that time and never had been.

Questions by Judge WICKERSHAM:

Q. What do you know of the politics of Mossman?—A. I don't positively know his politics, but I know he was voting for Sulzer.

Q. Whom was he employed by?—A. By the United States marshal for the third division of Alaska, who is a Democrat. He has been in the marshal's office for at least three or four years; he was in Valdez for a year or two before he went to Anchorage.

Q. Do you know of anybody connected with the marshal's office that supported the Republican candidate in any way?—A. I don't think so; I didn't talk to all of them, but most of them talked to me and stated their intention to vote for Sulzer. I was on excellent terms with all the men in the marshal's office.

Q. All of the officials here are Democrats?—A. There are three or four Republicans in the courthouse, but each and every one I talked to, and I talked to nearly all of them, said to me, either before election that he was going to vote for Sulzer or after election that he did vote for Sulzer, including Mr. Hamburger, the court reporter present. I wouldn't say every man in the marshal's office told me he was for Sulzer, but nearly all of them did.

I wish to testify further as to Fred C. Bretherson, whose name appears as a voter in the Valdez Bay precinct. I have known him for two or three years. He was town marshal of the town of Cordova until he was inducted into the service as a conscripted soldier about June or July, 1918, and he was at Fort Liscom solely as a conscripted soldier and remained there until he was discharged about the middle of the winter, when he went back to Cordova. That was true of all those soldiers there, as far as I personally know them—that was true of all of them; I would say that as to personal knowledge as to part of them and common notoriety as to all.

Q. Are there farms over there?—A. No farms; the only employment they could get around there, in the Valdez Bay precinct, would be as civilian employees at the post, and none of them, except those named by Mr. Cashman, were civilian employees, Mr. Campbell and Mr. Beck, or they could have been working in the electric-light plant for the Electric Light Co., which has two light plants, what is known as the upper and lower plants—two or three men and women were working at each place—or they could have been employed by the Granby mine, which at that time was about to shut down and had only a watchman, Mr. Brauer, up to the mine, which is 5 miles from the bay; and then there were three or four persons connected with the mine living in houses close to the bay, about a mile from Fort Liscom, but none of those appear to have voted. Mr. Palmer Cook, the superintendent of the mine, is a Canadian and did not vote.

Q. Who are the election officers named on that list on November 5 at Valdez Bay precinct?—A. The election officers were Edward P. Cashman, who has testified here; A. E. Rucker, who was a resident of the town of Valdez; and Lysle D. Brown, of McCarthy. I know that Mr. Brown resides at McCarthy, because I am one of his attorneys in a case which he has in court, and Mr. Dimond is on the other side, and I have had occasion to converse with Mr. Brown several times in which he distinctly stated—I don't suppose he stated it in so many words, I live at McCarthy, but discussed the fact in such a way that there was no other implication to be drawn from it. He has been living up there for several years.

Q. He was here at Fort Liscom as a conscripted soldier?—A. He was here at Fort Liscom as a conscripted soldier and went back to McCarthy when he was discharged along in the winter; I don't know what his politics are; I never asked him and he never told me.

Q. What are Rucker's politics?—A. Rucker is a Democrat and he so stated to me but he never said to me how he voted at that election. I don't know.

Questions by Mr. DIMOND:

Q. Brown has been a resident of Alaska for several years?—A. I think so from the fact that he has been doing business at McCarthy for several years. I never knew him until he came to my office, after he came to Liscom.

Q. The pleadings in that suit show, do they not, that he was at McCarthy in the fall of the year 1917 and the cause of action arose in the fall of the year 1917 and the winter of 1917-18?—A. Yes, sir.

Q. And Fred Bretherson, do you know whether or not he has been a resident of Alaska for some time?—A. I have known him in Cordova two or three years.

Q. And as far as you know Alaska has been his residence?—A. I have no doubt about that; he was conscripted from Cordova—that was his residence.

Q. The same way with James Mitchell and Mrs. Mitchell, they have resided in Alaska for quite a number of years?—A. They have resided in and around Valdez to my knowledge for nearly 10 years; possibly longer.

Q. The point you desire to make is, they were not residing in the Valdez voting precinct?—A. They were living in a little house they have near the mouth of Gold Creek, 5 or 6 miles down the bay.

Q. That is in the Valdez Bay precinct?—A. That is in the Valdez Bay precinct, and they were clearly entitled to vote there.

Q. And Rucker and Rider have resided in Valdez or in Alaska for quite a number of years?—A. I never knew them except in Valdez, and I have known them six or eight years. There is no question that they were entitled to vote in the town of Valdez.

Q. You at first interposed a challenger to the votes of Mr. and Mrs. Mossman?—A. Yes, sir.

Q. And you propounded questions to Mr. McHie?—A. Yes, sir.

Q. And afterwards when the board made a ruling that all persons might vote, all persons who had resided in the division for the required length of time and were residents of Alaska could vote although they had not been 30 days in the precinct, when the board made that ruling you withdrew your challenge.—A. Yes, when Mr. and Mrs. Mossman came in, they asked for tickets and were given them. I immediately challenged their votes on the ground that they resided in Anchorage and not in the town of Valdez, and in the meantime Mrs. Mossman had gone into the booth with her ticket and Mr. Mossman made no reply to my statement that he lived in Anchorage. Mr. Mossman and I are very close personal friends, and then I made this statement: I would be very sorry to see Mr. and Mrs. Mossman lose their votes, because they have been kept away from home by the failure of a steamer to arrive to take them back to Anchorage, but under the law, they are not entitled to vote. However, the Territorial law provides that any person may vote in any precinct of the judicial division in which he resides. Under that law Mr. and Mrs. Mossman, as well as several other persons in the town, are entitled to vote. I want to be fair about this and ask the board to make a ruling whether they will proceed under the Territorial law or under the congressional law, which I think is the proper way, and there was considerable discussion, Mr. McHie doing most of the talking, and finally I said: Let us vote any person belonging to this part of the country and I said, if the board will do that, I will withdraw the challenge, and they nodded at each other and I withdrew the challenge.

Q. And you didn't challenge anybody else?—A. No.

Q. And at that time you were in a measure representing the Republican ticket?—A. Trying to; yes.

#### Questions by Judge WICKERSHAM:

Q. The Territorial law would undoubtedly be good as far as the election of an attorney general is concerned, a Territorial officer?—A. That is my opinion as a lawyer.

Q. But your opinion as a lawyer was that it did not repeal the United States statute with respect to the election of Delegate to Congress?—A. No; I stated to the board the provision in the organic act creating the Territorial Assembly of Alaska, which provides that the time of the election for Delegate after the first election in August shall be in November, and that the election shall be governed in all other respects by the law of May 7, 1906, and it was my opinion that the Territorial legislature had no right to add anything to the congressional requirements.

Q. As a matter of fact, the Territorial legislature was not forbidden to provide for the election of Territorial officials in any way it pleased by the law?—A. No; it was not.

Q. But when it came to the election of a Delegate to Congress, it is forbidden from changing the laws of the United States for the election of that officer?—A. That is my opinion as a lawyer.

Mr. WICKERSHAM. That's all.



## Questions by Mr. DIMOND:

Q. Do you know what rule was followed in other precincts around here relative to permitting those persons to vote who had not been in the precinct 30 days; for instance, do you know what the rule established at Cordova was?—

A. I am not sure, but I think I have heard they allowed men there outside of Cordova to vote; I believe I have been told that, but I am not positive. I don't know about any other precinct but that, but I think I have been told they allowed men going through to Fairbanks to vote in Cordova.

E. E. RITCHIE.

(Witness excused.)

Judge WICKERSHAM. Mr. Dimond, the two witnesses, Mr. Tyer and his wife, seem to have left the jurisdiction before they signed their depositions. Are you willing to agree that the depositions may stand without their signatures as taken down and written out by Mr. Hamburger, the court stenographer?

Mr. DIMOND. Yes. I want to read it over and have the privilege of calling any matter to the attention of the reporter.

Judge WICKERSHAM. Very well.

The NOTARY. The stipulation is agreed to by both sides.

Judge WICKERSHAM. I desire to be sworn.

## DEPOSITION OF JAMES WICKERSHAM.

JAMES WICKERSHAM, the contestant, called and sworn as a witness in his own behalf, testified as follows:

## Examination by Mr. RITCHIE:

Q. Your name is James Wickersham?—A. Yes, sir.

Q. You may proceed with your statement.—A. My name is James Wickersham; I am 62 years old; I am a resident of Fairbanks, Alaska, a citizen of the United States, and was a candidate for Delegate to Congress at the election of November 5, 1918. There were three candidates for that office at that time, and subsequently there was considerable question as to who was elected, and on April 15, 1919, Charles A. Sulzer died on his way from his home at Sulzer, Alaska, to Ketchikan. Mr. Sulzer was the Democratic candidate for Delegate to Congress from Alaska against me at the election of November 5. Two days after Mr. Sulzer's death the certificate of election was issued by the canvassing board in Mr. Sulzer's name and forwarded to Washington and filed.

I immediately began the preparation of papers in contest. Under the statute service must be made upon the contestee, who in that case was Mr. Sulzer; but Mr. Sulzer was dead, so I prepared my notice of contest very fully and swore to it on May 3, 1919, before a notary public in Juneau, the capital of Alaska, and inclosed the original copy in the United States mail, by registered mail, directed to the Clerk of the House of Representatives of the Sixty-sixth Congress, Washington, D. C. That copy was received in the office of the Clerk of the House of Representatives some time about the 16th of May, and it was filed as of that day; how long before that it was received I don't know, but it was filed on the 16th of May.

Thereafter, on the 2d day of June, the Clerk of the House of Representatives, by an official communication, forwarded that notice of contest to the House of Representatives, to the Speaker, and the Speaker laid it before the House of Representatives, and it was by the House ordered to be filed and printed, and it became House Document No. 74, Sixty-sixth Congress, first session.

After having begun my contest in the only practical way that it could be begun, I undertook to take evidence in support of the allegations made, but found a great deal of difficulty, because the rules adopted by the House of Representatives in former statutes required notice of the taking of the evidence to be made upon the contestee, who was dead, so it was impossible for me to give notice to him. I did the only thing I could do under the circumstances and that was to take my evidence in the form of affidavits, which I did, following the form of procedure adopted by the statutes for the control of contested elections. I would go before a notary public and have him issue subpoenas to the witnesses when I could; when I could not I would take their statements in the form of affidavits. Among other efforts I made along that line was in the town of Valdez, to take the depositions of certain soldiers in the Regular Army of the United States, who were either in the Signal Corps or in the Quartermaster's

Department, stationed here, and as to them I sought to take their depositions by applying for subpoenas before a notary public, giving them notice and bringing them before him for hearing, so as to give a public examination of the matter as far as possible.

I want to go back a little in my statement of this matter to the contest of 1916. In the contest of 1916 a large number of soldiers, including Signal Corps men, had voted at Fort Gibbon, Fairbanks, in the city, and at Valdez. In the contest which I brought with respect to that election these facts were set up by me and very general public notice was given throughout the territory of the invalidity, at least of my challenge to the validity, to the right of these soldiers in the Regular Army, who had not enlisted in the Territory of Alaska, to vote. The matter was brought squarely before the House of Representatives and before the Committee on Elections in that contest, and the committee sustained my contention. The Sixty-fifth Congress was a Democratic Congress—that is, a majority of the Members were Democrats—and they had control of its organization, including the Committee on Elections, before which this contest was tried, and the committee unanimously held that an enlisted soldier in the Army of the United States who had become a soldier in one of the States and had been ordered to the Territory of Alaska by his superior officers for service here did not acquire, while he resided in the Territory of Alaska, any residence here which enabled him to vote, and that committee unanimously threw out or discarded and refused to count some 45 votes of these Regular Army soldiers, including the Signal Corps men that were then named, and reduced the vote that much in proportion.

I had great difficulty at Fairbanks and Fort Gibbons in the 1916 election to get these men to testify. They were friendly to the Democratic officials and Mr. R. F. Roth, the United States district attorney at Fairbanks, gave them advice, and, in fact, he is the man who first instructed them to vote, as that record disclosed very fully. The Democratic organization at Fairbanks undertook to represent these men at Fairbanks and Fort Gibbon and employed a man by the name of McDonald, who was then one of the game wardens and a Democrat, to go to Fort Gibbon to represent them and they were instructed all along the line not to testify. Most of them refused to testify in the 1916 contest. Some of them were not cowardly about it at all and smilingly admitted that they voted for Mr. Sulzer and one of them only admitted that he voted for me.

The Democratic organization has at all times, in the 1916 contest and in this contest, supported these men in their refusal to testify.

I came here in May. On May 14 I undertook to get the testimony of such Signal Corps men as had voted illegally here in Valdez, and I went before Judge Brown and asked for a subpoena against them under the statute, but Judge Brown was a very sick man then and is yet, and asked me to go before a notary public, who had the same authority in the matter that he did and I did so. I went before Mr. Isaac Hamburger, who is the stenographer in the United States district court under Judge Brown, and who is also a notary public and asked him to issue subpoenas, give notice to these men, and have them brought before him to testify and left the matter with my attorneys. Mr. A. J. Dimond, of the firm of Donohoe & Dimond, attorneys at law of Valdez, Alaska, appeared for the soldiers and instructed them not to testify and denounced the proceedings very bitterly, said it was a fraud upon the law and all that, and the result was that none of them testified before the notary public at that time.

Before I did that I made a personal appeal to the men by writing them a letter and asking each of them to make a voluntary statement, so as to get the truth into the record without the difficulty which I readily appreciated on account of the death of Mr. Sulzer. I felt that the death of Mr. Sulzer ought not to prevent them from making a voluntary statement, so that the matter could be presented to Congress, and in view of that I wrote each of the Signal Corps men here in Valdez who had voted illegally at the November 5, 1918, election this letter:

VALDEZ, ALASKA, May 8, 1919.

MY DEAR SIR: Herewith I inclose a blank form of an affidavit which you are requested to sign and verify before Arthur Lang, clerk of the United States district court, whose office is in the court house, next door to the cable office, where your headquarters are. If the affidavit does not correctly designate the candidate for whom you voted at the Federal election on November 5, 1918,

have it corrected by Mr. Lang, by the insertion of the correct name. I will pay the fee charged by the clerk for the verification.

My purpose in asking you to sign and verify this affidavit has been fully and officially explained to Col. Lenoir, your commanding officer at Seattle, and to Capt. Faust, and a copy of my telegram of explanation to Col. Lenoir, dated April 21, 1919, and his answer thereto, dated April 22, 1919, are herewith inclosed.

I shall call and interview you personally, as suggested by Col. Lenoir's telegram, and request you to kindly act promptly in the matter, for I am limited by the United States laws and the infrequent steamer service, and wish to get your final action as soon as possible.

Respectfully,

JAMES WICKERSHAM.

At the same time I sent with that letter to each one of these men copy of an affidavit which is as follows:

TERRITORY OF ALASKA,

Precinct of ———, ss:

———, being duly sworn, deposes and says: That he is a soldier in the Regular Army of the United States, and is now stationed at ——— Alaska; that he enlisted in the said United States Army at ———, in the State of ———, on the ——— day of ——— 191—; that at no time prior to his enlistment as aforesaid was he a resident within the Territory of Alaska, and that after his enlistment in the Regular Army he came to Alaska as a soldier in such Army, and that his stay in the Territory of Alaska has been as a soldier in the Army as aforesaid; that he was stationed in Alaska as such soldier on the 5th day of November, 1918, at ———, Alaska; and that he was advised that he could vote at the general election held on that day for a candidate for Delegate to Congress from Alaska, and that, acting upon such advice, he did so cast his vote on that day at said general election and voted for Charles A. Sulzer as such candidate for Delegate to Congress at the regular polling place in the ——— voting precinct, Alaska.

Subscribed and sworn to before me this ——— day of ———, 1919.

*Notary Public for Alaska.*

My commission expires ———.

I visited the office of the Signal Corps every day in sending telegrams, etc., but not a single one of these Signal Corps men responded to my letter or acknowledged its receipt, nor did anything except glare at me with an unfriendly air, and they all refused to do anything.

Then I made by appeal to Judge Brown, and on May 9 I presented the following petition to Judge Brown, which I will read:

Hon. F. M. BROWN,

*Judge District Court of the United States, Third Division,*

*Valdez, Alaska.*

Comes now James Wickersham, contestant, and applies to Hon. F. M. Brown, judge district court of the United States, third division, Valdez, Alaska, to issue a subpoena to the following-named witnesses and therein direct their attendance before said judge on Wednesday, May 14, at the hour of 10 o'clock in the forenoon, at a place to be named in the subpoena, in the town of Valdez, in order to be examined respecting the said contested election. The names of said witnesses are Harry Shutts, M. H. Faust, Emil Lains, Alex. A. Kott, Charles A. Agnetti, W. J. Cuthbert, Mrs. W. J. Cuthbert, D. H. Tyer, Mrs. Donald H. Tyer, T. F. Griffith, Burr M. Snyder, Ike A. Beal, Howard G. Clifton, William R. Rogers, Harlan Van Wyck, C. R. Odle, O. Rosenblad, and F. R. Brenneman. Said witnesses are now within the town of Valdez and in this congressional district.

Dated and signed at Valdez, Alaska, this 9th day of May, 1919.

JAMES WICKERSHAM, *Contestant.*

At the same time I presented to Judge Brown a form of subpoena which I desired him to sign, addressed to these soldiers and their wives, which Judge Brown declined to sign.

After Judge Brown's refusal to consider the matter I applied to the stenographer and he did sign a subpoena to these men and they were brought before him as notary public.

Under the subpoena issued by Mr. Hamburger these men and Mr. Dimond, their attorney, appeared before Mr. Hamburger on May 14, 1919, at Valdez, and then Mr. Dimond instructed them not to testify. The record of that proceeding was made by Mr. Hamburger officially and forwarded to the Clerk of the House of Representatives and was published by the Clerk in a public document, and I now offer in evidence the statement of what occurred before Mr. Hamburger, notary public, in attempting to take these depositions on May 14, 1919, in the town of Valdez, Alaska, as shown in that public document beginning on page 28, for the purpose of showing the persistent refusal of these men and their Democratic advisers to give evidence in this case at any time, and their names and purpose, and ask to have the stenographer copy those pages into this record, leaving out the testimony of Mr. Brenneman. The effort to get the testimony here was a total failure because of the advice of their attorneys, Donohoe & Dimond.

Mr. DIMOND. I have no objection to that record going in, but I want everything to go in that happened on that particular occasion.

Mr. WICKERSHAM. I offer all of it except the testimony of Mr. Brenneman, which has nothing to do with the matter at all.

Mr. DIMOND. I want it all to go in, whatever happened on that occasion.

The NOTARY. You may introduce any part of the record that is not introduced, as part of your cross-examination.

Mr. WICKERSHAM. Mr. Reporter, please copy those pages into the record.

" VALDEZ, ALASKA, *May 14, 1919.*

" Be It remembered that pursuant to the application of James Wickersham, contestant, and the subpoena issued in compliance therewith, originals of which are attached hereto and made a part hereof, with the return of the United States marshal on said subpoena, a hearing in the above-entitled matter was had before me, Isaac Hamburger, a notary public in and for the Territory of Alaska, residing at Valdez, Alaska, at the courthouse in the said town of Valdez, Alaska, on Wednesday, the 14th day of May, 1919, at 10 o'clock in the forenoon of said day, when the following proceedings were had and done, to wit:

" The NOTARY. Mr. Reed, do you represent Mr. Wickersham?

" Mr. J. L. REED. Yes; I represent James Wickersham and am ready to proceed. I will excuse the following two witnesses, Capt. M. H. Faust and C. R. Odle. I have here the return of the marshal showing the witnesses served and will take that list and call the witnesses in the order therein given. Mr. Harry Shutts (Mr. Shutts rises). Please come around and be sworn.

" Mr. A. J. DIMOND. I appear here as attorney for Mr. Shutts, and before any further steps are taken in this proceeding I demand to know under what authority these subpoenas were issued and under that demand I desire to interrogate the officer who issued the subpoena to find out what proof he has that any contest has really been instituted.

" Mr. REED. Before that is done, on behalf of the contestant, while I have no objection to him personally appearing, I wish to make the legal objection to his appearing for any of these witnesses and also the objection to the procedure which is outlined.

" The NOTARY. Do you desire that I make a statement in that matter, Mr. Dimond?

" Mr. DIMOND. Yes.

" The NOTARY. I will say, Mr. Dimond, in answer to your question, that Judge Wickersham, under date of May 9, 1919, made an application to me as a notary public to summons certain witnesses to testify in the matter of a certain contested election that he claims was pending in the House of Representatives, and in which he was the contestant. I have the application here. It is headed: 'In the matter of contested election for Delegate from Alaska, now pending in the United States House of Representatives. Election held November 5, 1918. James Wickersham, contestant.' The application is signed, 'James Wickersham, contestant.'

" Upon examination of the act governing contested elections in the National House of Representatives, I found that a notary public is an officer to whom either party may apply for a subpoena in a case of this kind, and, upon Judge Wickersham's statement in his application and also his direct statement to me



In addition thereto that there was a contested election pending in the House of Representatives in which he was the contestant, I granted his application and subpoenaed these witnesses. I believed, after an examination of the act governing contested elections in the House of Representatives, that it was proper in such a case for me as a notary public to act and to exercise such power.

"Mr. DIMOND. I have no criticism to offer of the action of Mr. Hamburger as a notary public in issuing the subpoenas. Any other notary public would have done the same under like circumstances. Have you any other proof than Mr. Wickersham's statement that there is a contest pending in the House of Representatives, or at all?

"The NOTARY. I have not.

"Mr. DIMOND. If Mr. Reed or anybody else representing Mr. Wickersham has such proof I would like to have it produced.

"Mr. REED. I am not offering any further proof. I am simply here to take this evidence; that is all.

"Mr. DIMOND. Mr. Hamburger, have you any proof of any kind that notice of the time and place of the taking of these depositions or the proposed taking of these depositions, with the names of the witnesses to be subpoenaed and examined, was given to the party contestee, as required by section 108 of the Revised Statutes?

"The NOTARY. No; I have no such proof.

"Mr. DIMOND. If there is any such proof available, either in the hands of Mr. Reed or anybody else representing Mr. Wickersham, we should like to see it in order that the witnesses may know how to proceed.

"Mr. REED. We have no proof to offer.

"Mr. DIMOND. In view of the statements made, and from investigations which I have made myself about this matter, I am absolutely and entirely convinced that this alleged contest is in reality no contest whatever; that no notice was ever given to the contestee or anybody in his behalf, as required by section 105 of the Revised Statutes; that no opportunity was given to the contestee or anybody on his behalf to make answer to the alleged contest in accordance with section 106; that no notice was given to the contestee or his attorneys, or anybody representing him, of the time and place of the proposed taking of these depositions or the names of the witnesses to be subpoenaed, in accordance with sections 107 and 108 of the Revised Statutes, and therefore the whole proceeding, including the alleged contest and the attempt to take the depositions of these witnesses, is absolutely null and void and has no legal force or effect whatsoever, and knowing that, upon my advice, this witness, Harry Shutts, and all the other witnesses who have been subpoenaed here, whom I represent and whose names are Emil Lains, Alex. A. Kott, Charles A. Agnetti, W. J. Cuthbert, D. H. Tyer, Mrs. Donald H. Tyer, T. F. Griffith, Burr M. Snyder, Howard G. Clifton, William R. Rogers, and Harlan Van Wyck, must also and do, through me as their attorney, also refuse to be sworn or testify in this matter. I will state on behalf of these witnesses that they are only too ready and anxious to testify in any proper proceeding, and whenever any contest may be legally instituted they will gladly give their testimony when the proper steps are taken, and their refusal to give their testimony here and now is not to be construed as arising from any attempt or desire to evade the provisions of the statute, but wholly because they are convinced that this proceeding is an absolute farce and futility and has no legal force or effect whatever.

"Mr. REED. My position on that proposition is this, that we do not recognize the right of counsel to appear in behalf of these witnesses, and therefore, in order to make the record complete, we would like to call these witnesses that have been served and see if they refuse to be sworn and testify.

"The NOTARY. You may call them.

"Mr. REED. Mr. Harry Shutts; is he present? (Mr. Shutts rises.)

"Mr. DIMOND. Sit still, Mr. Shutts. I advise you gentlemen not to answer to your names at all and not to be sworn and not to give any testimony.

"Mr. REED. Do you refuse to be sworn and testify in this matter, Mr. Shutts? (No response.)

"Mr. REED. Do you want the record to show that you refuse or that you decline to answer that question? (No response.)

"Mr. REED. Emil Lains; is he present?

"Mr. DIMOND. Mr. Lains is present.

"Mr. REED. Mr. Lains, do you refuse to be sworn and testify? (No response.)

"Mr. REED. Is Mr. Kott present?



"Mr. DIMOND. He is present.

"Mr. REED. Do you refuse to be sworn and testify? (No response.)

"Mr. REED. Charles A. Agnetti?

"Mr. DIMOND. Mr. Agnetti is also present.

"Mr. REED. Do you refuse to be sworn and testify? (No response.)

"Mr. REED. W. J. Cuthbert.

"Mr. DIMOND. Mr. Cuthbert is present—all these witnesses are present.

"Mr. REED. Mr. Cuthbert, do you refuse to be sworn and testify? (No response.)

"Mr. REED. D. H. Tyer. Do you refuse to be sworn and testify? (No response.)

"Mr. REED. Mrs. Donald H. Tyer. Do you refuse to be sworn and testify? (No response.)

"Mr. REED. T. F. Griffith. Is Mr. Griffith present?

"Mr. DIMOND. Yes, sir.

"Mr. REED. Do you refuse to be sworn and testify in this case? (No response.)

"Mr. REED. Mr. Burr M. Snyder. Do you refuse to be sworn and testify in this case? (No response.)

"Mr. REED. Mr. Howard G. Clifton. Do you refuse to be sworn and testify in this case, Mr. Clifton? (No response.)

"Mr. REED. William R. Rogers. Do you refuse to be sworn and testify in this case? (No response.)

"Mr. REED. Harlan Van Wyck. Do you refuse to be sworn and testify in this case? (No response.)

"Mr. REED. F. R. Brenneman. Do you also refuse to be sworn in this case?

"Mr. BRENNEMAN. No; I do not.

"Mr. REED. You may be sworn, Mr. Brenneman. All the other witnesses may now be excused.

"Mr. DIMOND. At this time, in behalf of the witnesses whom I represent, I desire to enter a protest against this proceeding and the manner in which it was brought, as I am advised the whole thing is a farce. No attempt has been made to comply with the provisions of the statute, and I desire to characterize it as an abuse of judicial process, and so known to Mr. Wickersham at the time he caused these subpoenas to be issued.

"Mr. REED. I desire to save an exception to the remarks of counsel."

Judge WICKERSHAM (continuing). While I was here in Valdez in May, 1919, attempting to procure the testimony of the Signal Corps men and men in the Regular Army who were not entitled to vote at the election of November 5, 1918, in this precinct and in this neighborhood, I also by telegraph instructed my representatives and attorneys at Fairbanks, Alaska, to attempt to secure the testimony of witnesses of a similar character at that point. An application in my name was made by my attorney to Judge Bunnell, and was refused by Judge Bunnell, and no evidence was taken for that reason at that point. I really appreciated that there was a legal doubt about my right to take this testimony, but felt that I must do so because the very statute under which contested-election cases could be brought requires certain things to be done by the contestant, and I was convinced that I ought to do everything I could under that statute to bring myself in good faith within the rule, and did so, and these efforts were a part of that procedure. I also knew as a lawyer that the House had the right, and it was its duty under the Constitution of the United States, to consider a contested-election case, and that it might do so without any regard to the statutes which it passed and which it has many times held were only directory and not mandatory upon it; that it might conduct contested-election cases and determine the validity of the right of a representative to sit without regard to the laws it had passed.

I presented all of these matters and things to the House of Representatives with a statement of the situation, and asked for a resolution, to have a resolution passed by the House, authorizing the taking of additional depositions to make the case perfectly clear and legal and within any possible exception to the rule.

In the meantime, on or about the 28th of April, the governor of the Territory had called for a special election in the Territory and fixed the time for June 3 for the election of a person to fill the vacancy caused by the death of Charles A. Sulzer. I had declined to be a candidate at that election, because I had been elected in the November 5, 1918, election, and Mr. George A. Grigsby was the Democratic candidate and was not opposed by any Republican candidate. The fisherman down at Ketchikan, in the name of union labor, put

up a candidate by the name of Jones against him, and I think it is not yet determined who was elected.

On July 28, 1919, Congress passed House resolution No. 105 providing for the taking of depositions in the consolidated case of Wickersham v. Sulzer and Wickersham v. Grigsby, and these proceedings are being taken in that consolidated case.

I came to Valdez some days ago to take these depositions of the soldiers of the Regular Army who had voted illegally on November 5, 1918, and asked Mr. J. L. Reed, a notary public, to take the depositions as a notary, and asked Mr. Isaac Hamburger, the court stenographer, to take the depositions as such, and Mr. E. E. Ritchie became my representative in the matter.

Under House resolution No. 105 the House of Representatives requested the Secretary of War to assemble the men in the Signal Corps and in the Army mentioned therein at Sitka, Fairbanks, and Valdez so their depositions might be taken. I was very greatly surprised when I reached here to find that no order of that kind had been made, and as far as I know none has yet been made. On August 21 I sent this telegram to Col. Lenoir, commanding the Signal Corps, at Seattle:

VALDEZ, ALASKA, August 21, 1919.

Col. LENOIR:

*C. O. Signal Corps, Seattle, Wash.:*

Have requested Maj. Huston bring Ellison from Gulkana to Valdez at once for examination; also advising representatives take depositions other men mentioned promptly. Am sending instructions Fairbanks, but am informed no order for assembly under House resolution No. 105, July 28, and request such official action,

JAMES WICKERSHAM.

I have not received any answer to that telegram from Col. Lenoir, and I am not informed that any action has been taken under the resolution of the House of Representatives to comply with it.

On last Friday I learned that a man on the list, a man mentioned in House resolution No. 105, by the name of D. H. Tyler, who has been here in Valdez for a considerable length of time, had been ordered out of the Territory by the War Department or had been permitted to go out of the Territory by the department and intended to go on the boat within a day or two. We then had an arrangement with my attorney and others to give five days' notice, as required by the statute, to these Signal Corps men and soldiers who had illegally voted to require them to appear before Mr. Reed, a notary public, on this, the 28th day of August, 1919, for examination. The boat was to go about the 25th, so immediate action was necessary if Mr. Tyler was to go on the boat, and I had no desire to annoy him or the department about the matter, so on Friday we issued a subpoena to Mr. D. H. Tyler and to his wife, asking them to appear before the notary public on Saturday for examination, and they did so appear. Mr. Tyler testified before the notary and in his testimony testified that he had voted at the election of November 5, 1918, for me and not for Mr. Sulzer. I didn't believe his statement; I think it is false—

Mr. DIMOND. I object to any statement as to the belief of Mr. Wickersham as a matter of argument.

Mr. WICKERSHAM (continuing). Mrs. Tyler declined to state for whom she voted, and I tried to persuade her as a good citizen that it was her duty to tell the whole truth about the matter and state for whom she voted, but she refused. The examination ended and I said to them that I would be compelled to ask the commanding officer to hold Mr. Tyler here until the examination on this day.

Mr. DIMOND. We object to all this, as the only proper evidence of that is the record of what happened that day, to be filed by the stenographer and notary public in charge of the hearing.

The WITNESS (continuing). Mrs. Tyler refused to state for whom she voted, which, of course, was what I wanted her to do. After the examination had quit, about noon, I remained here in the office for a few minutes—not long, a brief time—and then left the office by myself to go to my hotel. I had no fear of anybody assaulting me. I had been judge of the United States district court in this division, a man of considerable age, and blind in one eye, and had no thought of being assailed or assaulted by anybody on my way to my hotel. I went from this room down to the corner, about half a

block, to Maj. Huston's office, and told him that I had some difficulty about taking the testimony of the Tyers and asked him to hold Mr. Tyer here under resolution No. 105 of the House of Representatives until we could take his testimony further. He said that he would do that; that he had no right, of course, to hold Mrs. Tyer in any way, but that he would order Mr. Tyer to remain here until to-day. I went out of the office then and diagonally across the street to the northeast corner of McKinley and Alaska Avenues, on which this office is situated, and in sight of it, less than a block away, and as I approached the corner there were three men standing there. Being totally blind in my right eye, I was giving my attention to my footpath and didn't notice the men until I was almost onto them. I then noticed one of them and recognized Mr. A. J. Dimond, with two other men standing with him. I didn't know the other men at all. I did know Mr. Dimond. I understand he is mayor of the town of Valdez——

Mr. DIMOND. I object to all of this as incompetent, irrelevant, and immaterial.

The WITNESS (continuing). They were standing on the corner, or just about in front of the bank, where they could see the front door of this office. They could see the whole walk from this office down toward them as I was coming; they could see me at every point along the line. They were just across diagonally from Maj. Huston's office in the Government building and just across the street from the Signal Corps office. As I came up to these three men I saw nobody else on the street. I was alone. Being blind in my right eye, totally blind, I may not have seen everything, of course, but I doubt that there was anybody in sight on the street except those three men. As I came up, Mr. Dimond turned away; I am not sure whether he walked away or not, because the men, who were waylaying me with him, acted so promptly after I saw him that I don't know what he did do, although I am satisfied he did not strike me. One of these men stepped up in front of me and stopped me. I was on the outside of the sidewalk, and he was a great, big, young, double-fisted, fine-looking, strong man, whom I had never seen before in my life. He said to me——

Mr. DIMOND. Right here I wish to interpose a further objection, that this is all incompetent, irrelevant, and immaterial, and I wish to make the statement that, so far as my being present or anywhere around there at the particular time that the witness is testifying to, it is absolutely false. I want to call attention to the fact that I am an attorney here, representing one of the parties——

Mr. WICKERSHAM. If you say you were not there, I will let the record go and say nothing more about it, but I thought it was you.

Mr. DIMOND. I will state this: I did not dream that anybody thought I had any knowledge of this or anything to do with this. I didn't know where you were. I did go to my office after I got out of here. I stopped in to see Maj. Huston and then went up to my office and came back and saw the two Selbys on the corner, and I stopped and talked with them and had a little conversation with them, but there was nothing in that conversation that indicated to me that they were doing anything except going about their ordinary business, and after having completed it—I think the last thing I spoke about was the publication of something in the newspaper; something in which I had an interest—I left them and started down the street toward my home. Just as I turned away from them, or within 10 or 12 feet from them, I saw you come out of Maj. Huston's office, but I took no notice of that except that I saw you; I didn't speak to you, but went right down the street, and was very nearly a block away when this matter happened concerning which I assume you are going to testify and which will go into the record over my objection. I have been in this Territory a good many years, and I think anybody that knows me knows that I would not take part, directly or indirectly, in any fistie contests over political matters or any other matters. I didn't take part in this case, anyhow.

Mr. WICKERSHAM. I am glad you made that statement, because I certainly would have done you an injustice if you had not; I can't deny it, because I couldn't see well enough to know who the men were. Anyway, when I got there this young, big fellow stopped me. I was on the outside of the sidewalk; he and the other man, whom I did not know but who I have since learned to be the Selbys, were on the inside, next to the center of the sidewalk. The young fellow said to me, "You have insulted my sister over there in that examination; she is over here crying now." I said, "No; I haven't insulted

your sister in any way"; and he repeated it—"Yes; you insulted her; she is over here crying now, and I am going to beat you up."

Mr. DIMOND. We object to this as incompetent, irrelevant, and immaterial and having no bearing upon the question as to who was elected in the 1918 election.

Mr. WICKERSHAM. No; but it has a good deal of bearing on the matter of the depositions. I can not testify about that last statement, whether he said he was going to beat me up or mash my face—it was an expression of that kind, which notified me of an immediate assault, and the assault was made on me so quickly that I don't remember what the expression was, for that reason, among others. He immediately struck me—struck at me—but I was standing with my face square to him and I could see him with my left eye. My left eye is pretty good; I am totally blind in the right eye; but I can see two-thirds, at least, good with my left eye, and I warded off his blows, but he kept striking at me, and the older man, who stood alongside of me on the right and whom I didn't know and couldn't even see, said, "Hit him, Tom; kill him; kill the ——." Well, Tom did his best, and between them they pushed me off the sidewalk. When I went off the sidewalk, rather backward and on my left side, it turned me half around and presented my right side entirely to them, and, being totally blind on that side, I couldn't defend myself, and one or both of them—I don't know whether the old man struck me or not, because I couldn't see, but I was struck very vigorously several times on the right side of my head. They knocked out the last big molar tooth in my lower jaw and smashed my ear and my face all up on that side. I think the jaw is broken, but Dr. Silverman says not, but it is so badly bruised and swollen and in such bad shape that although we took an X ray of it we couldn't tell anything about it; but I am suffering great pain with it now and have ever since. One of these blows on my right side, on my blind side, knocked me down, and I got up finally; I think I was kicked while I was down; I have got a very bad spot here on my lower right jaw [indicating], which I can't remember anybody to have struck when I was up; but I am not sure about that.

Mr. DIMOND. I desire the record to show that I object to all of this testimony—there is no use interrupting at every stage of it—to anything that occurred outside of this room.

The WITNESS (continuing). I finally came to and got up, and as I got up there was a man standing in front of me with a dark coat on, whom I didn't know, but I have since been told it was Mr. Casler, the deputy marshal, who had been somewhere in the neighborhood and had seen the fight and came over. He waved his hand and said that will do, or some form of that kind, and stopped it. Even then the older of these two men was dancing around and calling me a —— and trying to strike me, but the younger man took him by the arm and pushed him back and wouldn't let him do it.

I went to my hotel soon after that and sent for Dr. Silverman, and have been in bed most of the time since. My blind eye has been very badly injured and my face and jaw are very seriously injured and I have suffered very great pain, and consequently I have not been able to attend to the taking of my depositions in this matter during those days. I have 40 days to take the testimony in the Territory, but for those days since Saturday I have been in bed and not able to do anything.

When I came here to take these depositions I was told by my attorneys and by a great many of my friends in the town that there was a feeling of enmity here to me on the part of these Signal Corps men and their friends that had been worked up and I had better not undertake to take their testimony. I talked it over with my attorneys and they thought finally it would be all right to take them—it would come around all right—but since that even my attorney has advised me very strongly against it, and I have not undertaken to take the testimony of these Signal Corps men and Army men here since Mr. Tyer's going on the stand, because it is the fear of my friends that I may be killed if I undertake it.

Certainly Mr. Selby's earnest efforts to get his son to kill me arose from the fact of the taking of the deposition of Tyer and his wife, and from that alone. I never saw or knew Mr. Selby or the young Mr. Selby before in my life. I suppose I may have seen the father, I don't remember. But Mrs. Tyer is the daughter of Mr. Selby, and I am informed a sister of the man who commenced this assault on me. I didn't insult her in any way, as the record shows, and I am informed, Mr. Dimond, that you have said so.

Mr. DIMOND. No.



**Mr. WICKERSHAM.** You haven't said so; the record shows, however, that I did not; I tried to get her to tell the facts, and she declined to do it, and she then left the Territory, but with my consent, although she didn't finish her testimony and tell whom she voted for. Mr. Tyer went out with her. Neither one signed their depositions, although their attorney has consented that their depositions may stand as their depositions without their signing them.

There are many things in connection with the taking of these depositions of the soldiers here that lead me to believe that they are very much incensed at me, and I seem to stand in about the same relation to them that an internal-revenue officer does in the South to a lot of moonshiners. I want them to tell the truth about whom they voted for, and for two elections they have now evaded it under the instructions of their attorneys, the Democratic organization, and I get beaten up on the public streets, although I am 62 years of age and blind, by the bunch when I undertake it, and I am not inclined to go any further with the taking of their depositions at this time. The War Department has not assembled them as the resolution provided for, has refused to do it, and with all that objection and lawlessness I am inclined to let it go and state the facts to Congress and see what Congress does about it.

**Mr. DIMOND.** I move that all this matter be stricken on the same ground, that it is incompetent, irrelevant, and immaterial.

**Mr. RITCHIE.** Judge Wickersham. Is it true that I, as your attorney, have advised you that I have been advised from various sources that to me are reliable, that nearly all of these Signal Corps men, if they do testify as to whom they voted for, will say they voted for you, although it has been notorious for 10 months that most of them voted for Sulzer?

**A.** Yes.

**Mr. RITCHIE.** And I have advised you that there was no use taking evidence for the other side?

**A.** Yes; you have advised me on that, and a good many other good respectable people in the community have advised me of the same thing, and after looking it all over and hearing Tyer's testimony, and after being assaulted as I was by Tyer's brother-in-law and father-in-law, who is the editor of the paper here and under the control of the Democratic organization, I am satisfied it is true. I am satisfied the truth can not be gotten out of these fellows in any such way, and for that reason I am not taking their depositions.

One of the principal forces in this little group of lawless men has been Richard H. L. Noaks, who has taken a pronounced position while a member of the Signal Corps against me, and has voted on at least two occasions illegally. Mr. Noaks has been appointed commissioner at Cordova, and I understand is located over there in one side of a building and Mr. Donohoe is in the other side—located as such commissioner. I examined the record in the clerk's office up here in the courthouse and I find that Mr. Noaks was not made a citizen of the United States until July 17, 1917, as appears by the records in the clerk's office of the district court of this division, and he was then a soldier in the Regular Army, and had been enlisted in the States outside and before he had even gotten out of the service or promptly thereafter and before he was entitled to vote as a resident of the Territory of Alaska, he was appointed to that office, I understand, by the Democratic machine.

At the 1918 election and in the 1916 election the strongest force, aside from Noaks, here in Valdez, was Capt. Faust, who was a very bitter opponent of mine and to whom I talked about the matter and who claims to be a resident of the Territory of Alaska like these other fellows do. I met Mr. Faust recently in Seattle and took his deposition and he then informed me that he was on his way outside to be discharged, he had left the Territory. During all the time he was here in the Regular Army, he was only theoretically a citizen, but he was very active in organizing the Signal Corps in a political way for the Democratic organization and then left the Territory.

The active man at Fairbanks is a man by the name of Pegues; Pegues has been in charge of the Signal Corps office there, as Faust was here, and at the same time he was the editor of the democratic newspaper at Fairbanks, called the Fairbanks Citizen, and public announcement in the other newspapers and in that newspaper has been made of that fact, and he is now serving as such. Whether he has been discharged from the Army or not, I do not know.

A similar situation has existed at Ruby and the Signal Corps men in that way have been organized by their superior officers and by the Democratic organization here in Valdez and at Fairbanks and other places until it has be-



come substantially an interior part and force in the Democratic organization. I protest against such use of the Signal Corps force in Alaska because it has rendered it unsafe for me and my friends to send telegrams through the Signal Corps and it is a mess that ought to be cleaned up. The Signal Corps men, as I remarked, seem to look upon me as a revenue officer is looked upon among the moonshiners in the South and fear apparently that I am trying to get evidence to prosecute them for felonies for illegal voting. There is no question under the decision of the Democratic committee of the House of Representatives of the Sixty-fifth Congress but that every one of them voted illegally, both in 1916 and 1918, and they did it when the Democratic organization knew, including many of the Democratic officials, that that committee had held that it was illegal and a crime and they fear that I am trying to get information against them to prosecute them for crime, and for that reason, amongst others, I am satisfied that they will not tell the truth if put on the witness stand. Of course the fact is that the mere fact they voted is a crime, not whether they voted for me or Mr. Sulzer, but they are mad at me because I am trying to get their testimony and that is why I was beaten up on Saturday.

Mr. DIMOND. I object to all this on the ground that it is incompetent, irrelevant and immaterial and argumentative and hearsay and not anything that may be considered as evidence.

Mr. WICKERSHAM. I offer in evidence now a certified copy of the registration book of the Valdez Bay voting precinct, being the election register and tally book for November, 1918, election and showing the names of all persons who voted in that precinct for Delegate to Congress at that time.

Mr. DIMOND. I have no objection.

Whereupon the said election register and tally book of the Valdez Bay voting precinct was marked "Exhibit B," and is attached hereto and made a part hereof.

Mr. WICKERSHAM. I also offer in evidence a certified copy of the election register and tally book for November 5, 1918, election held at Valdez, in the Valdez recording precinct, in so far as the same relates to the election of Delegate to Congress and ask that it be marked "Exhibit C."

(The said election register and tally book is so marked, without objection: is attached hereto and made a part hereof.)

Mr. RITCHIE. We offer a certified copy from the clerk's office of the tally sheet and register of voters of the primary election held in the town of Valdez, Valdez voting precinct, April 30, 1918.

(This tally sheet and register had already been introduced and marked "Exhibit A" and is hereto attached.)

Mr. RITCHIE. We also offer in evidence a certified copy from the clerk's office of the district court of the duplicate primary election register and tally book for Copper Center voting precinct for the primary election held April 30, 1918.

(The said register and tally book is marked, without objection, "Exhibit D;" is attached hereto and made a part hereof.)

Mr. RITCHIE. We also offer a copy, certified by the clerk of the district court, third division of Alaska, of the election register and tally book for the November 5, 1918, election, held at Copper Center, Alaska and ask that it be marked "Exhibit E."

(The said register and tally book is so marked without objection, is attached hereto, and made a part hereof.)

Mr. RITCHIE. We offer in evidence a certified copy, by the clerk of the district court, third division of Alaska, of the duplicate primary election register and tally book for Sourdough voting precinct held April 30, 1918.

(The said register and tally book is marked, without objection, "Exhibit F," is attached hereto, and made a part hereof.)

Mr. RITCHIE. We offer in evidence a certified copy by the clerk of the district court for the third judicial division of Alaska of the election register and tally book for November 5, 1918, election at Sourdough voting precinct.

(Said register is marked, without objection, "Exhibit G," is attached hereto and made a part hereof.)

Mr. RITCHIE. We offer in evidence a certificate by Arthur Lang, clerk of the district court for the third division of Alaska, with the seal of the district court attached, setting forth the fact that he had forwarded election supplies, except the official ballots, for the November 5, 1918, election, for the voting precincts of Choggiung and Nushagak, in the Bristol Bay recording district, to Dr. L. H. French, United States commissioner at Dillingham, Alaska, and on another date he forwarded the official ballots to the said commissioner at

Dillingham, and it further recites receiving from the election judges certain documents showing their record of the election, all of which is set forth in his certificate.

(The said certificate is marked, without objection, "Exhibit H," is attached hereto, and made a part hereof.)

Mr. RITCHIE. We offer in evidence at this time a copy of the subpoena issued by J. L. Reed, notary public, to D. H. Tyer, Mrs. Donald H. Tyer, and Capt. Charles L. Hewes, directing them to appear at his office on the 23d of August, 1919, to testify in the contested election case of Wickersham v. Sulzer.

(Said copy of subpoena is marked "Exhibit I" without objection, is attached hereto, and made a part hereof.)

Mr. RITCHIE. We also offer in evidence a copy of the notice to Mr. Grigsby and his attorney, Mr. A. J. Dimond, that the depositions referred to in the previous exhibit would be taken at the time and place mentioned.

(Said copy of notice is marked "Exhibit J" without objection, is attached hereto, and made a part hereof.)

Mr. RITCHIE. We also offer in evidence a copy of the notice of the taking of the depositions of certain witnesses named therein served upon Mr. A. J. Dimond, agent for George B. Grigsby, with his acknowledgment of service thereon, the evidence to be used in this contest.

(Said copy of notice is marked "Exhibit K" without objection, is attached hereto, and made a part hereof.)

Mr. WICKERSHAM. I also offer in evidence the original copy of the notice of contest of James Wickersham v. George B. Grigsby, dated at Washington, D. C., the 23d day of June, 1919, signed by myself, with proof of service thereof on Mr. Grigsby on the 28th day of June, 1919, in Washington, D. C., and ask to have it attached to this record when it goes to Washington.

(The said copy of notice of contest is attached hereto and made a part hereof marked "Exhibit L.")

Mr. WICKERSHAM. I also offer in evidence an original copy of the reply which I made to Mr. Grigsby's answer.

(Said reply is hereto attached, marked "Exhibit M," and made a part hereof.)

#### AFTERNOON SESSION.

Mr. WICKERSHAM. I also offer in evidence an official roster of the Signal Corps in Alaska on December 31, 1916, giving stations and duties. On that I have erased the words "and proficiency in telegraphy and visual signaling" and other markings in those matters because they are unimportant to the issue. I introduce this for the purpose of showing the difference in the groups of Signal Corps men voting in 1916 and 1918.

(The roster is marked "Exhibit N," is attached hereto, and made a part hereof.)

Judge WICKERSHAM. I might say that that was furnished to me by Col. Lenoir, the commanding officer of the Signal Corps, as an official list.

Mr. DIMOND. I have no objection to it.

Mr. WICKERSHAM. I also offer in evidence the compilation of the vote cast in the Territory for all officials, being an official statement by the canvassing board of the returns of the election of 1918, certified to by the Secretary of the Territory, the document now being in the hands of the Clerk of the House of Representatives, where I have heretofore placed it, with the other evidence I offered, and it is published at pages 87 to 93 of the official publication of the recent case by the House of Representatives.

Mr. DIMOND. If you will assure me that this is a copy, it is all right.

Mr. WICKERSHAM. I do that.

Mr. DIMOND. No objection.

(The said pages 87 to 93 of the publication contested election case of Wickersham v. Sulzer, etc., 1919, marked "Exhibit O," attached hereto and made a part hereof.)

Mr. WICKERSHAM. I also offer in evidence the other exhibits on file with the Clerk of the House of Representatives, excepting ex parte affidavits, which have been denied, now on file with the Clerk of the House of Representatives, the said exhibits all being certified by proper officials and all published in the record by the Clerk of the House of Representatives in the case of Wickersham v. Sulzer in the Sixty-sixth Congress; I do not, of course, offer the ex parte affidavits.

Mr. DIMOND. I make the formal objection to that as I am not aware just what this testimony consists of and whether it is proper to put it in evidence. (The said exhibits being embodied in the same publication are marked "Exhibit P" and made a part hereof.)

Mr. WICKERSHAM. I also offer in evidence the evidence attempted to be taken in the former, 1916, contested election case at Fairbanks, in the effort to secure the testimony of these Signal Corps and other soldiers in the Regular Army at that place, including Charles A. Agnetti, and Harry Shutts, and Capt. Faust, and being found on pages 164, 165, 166, 167, 168, 169, and thence on to 199 in the official printed record of the contested election case of Wickersham v. Sulzer from the Territory of Alaska in the 1916 contest, the whole of the same relating to the attempt to take the depositions of the said soldiers at Fairbanks.

Mr. DIMOND. We object to that as incompetent, irrelevant, and immaterial, and not an issue in this case.

(Above pages of the said record marked "Exhibit Q" and made a part hereof.)

Mr. WICKERSHAM. I also offer in evidence a copy of the Valdez Miner, a newspaper published by H. B. Selby, editor and proprietor, otherwise known as the Prospector Publishing Co., at Valdez, Alaska, the said Selby being the older of the two men who waylaid and assaulted me on last Saturday and the date of the paper being May 17, 1919, and especially that part of it on the first page headed "Attempt to force soldiers to testify proves a farce. Wickersham bluff fails to work." etc., and especially the latter part of the two clauses which I read into the record:

"The attempt of Mr. Wickersham to force the soldiers to appear before a judicial executive and tell how they voted, appears to have been a deliberate and conceived fraud, without legality and shady in its methods, in that Mr. Wickersham stated to the notary that he had already filed his contest, knowing as a lawyer that such contest could not be filed until a successor to Mr. Sulzer had been elected, and knowing also that such subpoenas were illegal until the proper steps had been taken toward filing the contest.

"The soldiers and citizens of Valdez are naturally very indignant over the attempt to defraud them of their privileges as American citizens in keeping the ballot secret, and public condemnation of the methods employed to bring these men before a notary is universal."

Together with other statements of that kind in the same newspaper.

Mr. DIMOND. We object to the introduction of this newspaper in evidence or any extracts therefrom on the ground that it is incompetent, irrelevant, and immaterial.

Mr. WICKERSHAM. It is offered for the purpose of showing that this man Selby, through his newspaper, has done what he could in this and other newspapers to provoke a hostile condition in the minds of the soldiers and Signal Corps men here against testifying in this case. And I offer along the same line a copy of the Daily Alaska Citizen of May 17, 1919, published at Fairbanks by J. H. Caskey, proprietor and manager, a Democratic newspaper, and Pegues was then one of its editorial writers, and it also denounces in strong language my attempt to secure testimony there, and it contains a strong statement of telegraphic matter from the Valdez Miner, substantially as it shows on the face of the Miner here. I offer both these in evidence and those particular articles, the article in the Citizen being headed "Wickersham's Bluff to secure much testimony called," etc.

Mr. DIMOND. We object as incompetent, irrelevant, and immaterial.

(The two newspapers are marked "Exhibit R" (Valdez Miner, May 17, 1919), and "Exhibit S" (Fairbanks Daily Alaska Citizen, May 17, 1919); they are attached hereto and made a part hereof.)

Mr. WICKERSHAM. I introduce in evidence a certified copy of an act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives, and declaring an emergency, approved by the governor of the Territory of Alaska, April 28, 1919, certified to by the secretary of the Territory of Alaska, being the act under which the special election of June 3, 1919, was held in the Territory of Alaska. Those laws are not yet printed and I introduce this from the office of the secretary for that reason.

(The certified copy is marked "Exhibit T," attached hereto, and made a part hereof.)

Mr. WICKERSHAM. I also introduce a copy of the law and instructions sent out to the clerks of court, under the signature of the governor, on April 28,

1919, by telegraph, and signed by the governor, this copy being from the office of the clerk of the district court of the third division at Valdez.

(The said copy is marked "Exhibit U," is attached hereto, and made a part hereof.)

Mr. WICKERSHAM. And in respect to these matters I want to say that I have made every effort possible to get a copy of a final canvass and compilation of the vote of the special election of June 3, 1919, and I have been informed that the various precincts have not all yet reported and that no final compilation of the canvass has yet been made of that election. That is all.

By Mr. DIMOND. Did you give Mr. Tyler permission to go out?

A. I did.

Mr. DIMOND. That is all.

Mr. WICKERSHAM. I did in this way: I wrote a letter to Maj. Huston, of which I have a copy here if you want it for the record.

Mr. DIMOND. No; I just want to know whether he went out with your permission or without it.

Mr. WICKERSHAM. He went out with it and he went out because Dr. Silverman informed me that his wife was in the family way, was hysterical, and ought to go—that was after the assault on the streets.

Mr. DIMOND. Did you meet with any opposition from Maj. Huston here in your attempt to take testimony?

A. Not at all.

Q. He was very courteous to you?—A. He was very courteous to me and very kind at all times.

Q. And as soon as you requested him to keep Mr. Tyler here he issued an order to that effect?—A. He did—he kept Tyler here until I wrote him a letter asking him to let him go on Dr. Silverman's statement.

(Witness excused.)

JAMES WICKERSHAM.

#### DEPOSITION OF SAM CAMPBELL.

SAM CAMPBELL, called and sworn as a witness on behalf of the contestant, testified as follows:

Direct examination by Mr. RITCHIE:

Q. What is your name?—A. Sam Campbell.

Q. Where do you reside?—A. Fort Liscum at present.

Q. How long have you been at Fort Liscum?—A. I came there October 18, 1911.

Q. What is your occupation or employment there?—A. I am on the harbor boat *Donaldson*.

Q. That is a Government boat?—A. Yes, sir.

Q. You are in the employ of the United States Government?—A. Yes, sir.

Q. In civilian employment?—A. Yes, sir.

Q. You are not an enlisted soldier?—A. No, sir.

Q. How long had you lived in Alaska before you went over there to the post in 1911?—A. Not any.

Q. You just came here then?—A. Yes, sir.

Q. And you have lived there continuously—that is, it has been your home and you have been in that employment continuously from 1911 up to the present time?—A. Yes.

Q. Did you vote at the November 5, 1918, election in Valdez Bay precinct, or the Granby Wharf, for Delegate to Congress?—A. Yes, sir.

Q. For whom did you vote?—A. For Mr. Wickersham.

Q. James Wickersham?—A. Yes, sir.

Q. How many men are there living at Fort Liscum or around Valdez Bay, over at the Granby or the electric light plant—how many were there on November 5, 1918, who were not enlisted soldiers or drafted soldiers or officers in the United States Army—do you think you know everybody that was around there?—A. No, sir; I don't know the men up at the Granby Mine or up at the power plant.

Q. Do you know everybody aside from soldiers who were then employed at the post? Do you know all the civilian employees at the post?—A. I know all the civilian employees at the post; yes.

Q. Will you please name them, besides yourself?—A. Capt. Erickson, Mr. Beck—

Q. Capt. Erickson is married?—A. Yes; and his wife——

Q. Are there any women who are not the wives or belong to the families of officers over there?—A. No, sir.

Q. You and Mr. Beck and Capt. Erickson and Mrs. Erickson then were on the 5th of November, 1918, the only American citizens not in the United States Army at Fort Liscum?—A. My wife was there.

Q. Did your wife vote?—A. No.

Q. Did you know a great many of the soldiers over there?—A. No; I did not.

Q. Were you around the polls very much that day?—A. No, sir; I made a special trip over to the Granby and I just went up there for about 5 minutes.

Q. Was anybody on the boat besides yourself who were not soldiers—yourself and Capt. Erickson, when you went over there?—A. No, sir.

Q. All the other men were soldiers?—A. Yes, sir; and Mr. Beck here.

Q. Being fireman on the boat you went on both trips—the boat made two trips carrying men over there?—A. Yes; we made two trips.

Q. And did anybody go over there on the *Donaldson* on either trip and vote, who was not a soldier, except yourself and Mr. Beck?—A. Well, I couldn't say as to that exactly.

Q. Was there anybody aboard except yourself and Mr. Erickson and Mr. Beck on either trip that was not a soldier?—A. Not that I know of.

Q. Are you quite positive about it?—A. In fact, I didn't pay much attention as to who was on, but I don't think there was anybody.

Q. Were these soldiers in uniform?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. Everybody who rode except yourself and Beck and Capt. Erickson were in uniform?—A. Yes, sir.

Q. How many were there?—A. I don't know exactly how many there were—you can find that from the log of the boat.

Q. About how many, as near as you can remember?—A. About 20, I should judge.

Q. Each time?—A. About 15 on the average.

Q. Fifteen to twenty men on each trip?—A. Yes, sir.

Q. And they were all soldiers from the post?—A. Yes, sir.

By Mr. DIMOND:

Q. Do you know whether they all voted or not?—A. No; I couldn't say; I wasn't there at the polls when they were up there. They came back and then I went up.

Q. You took them up to vote, or don't you know what they went up for? What was the object of their going up?—A. To vote.

By Mr. RITCHIE:

Q. That was the order, to take men over there to vote?—A. Yes, sir.

Q. On both trips?—A. Yes, sir.

(Witnessed excused.)

SAMUEL CAMPBELL.

#### DEPOSITION OF W. S. BECK.

W. S. BECK, a witness called and sworn in behalf of the contestant, testified as follows:

Direct examination by Mr. RITCHIE:

Q. Your name is W. S. Beck?—A. Yes, sir.

Q. Where do you live?—A. Fort Liscum.

Q. How long have you been there?—A. 1912.

Q. You are a civilian employee there?—A. Yes, sir.

Q. What is your employment?—A. I am on the police guard; that is what they call it in Army parlance; in other words, scavenger.

Q. You do teaming there?—A. Yes, sir.

Q. And have been in that employment continuously since you went there in 1912?—A. Yes.

Q. Prior to that time you lived in Valdez?—A. Yes, sir.

Q. And had for a great many years?—A. Yes, sir.

Q. You are not a soldier and have not been at any time?—A. No.

Q. You are an American citizen?—A. Yes, sir.



Q. Did you vote at the election last November for Delegate to Congress?—

A. Yes, sir.

Q. For whom did you vote?—A. James Wickersham.

Q. Did you go over on the first or second trip of the Donaldson?—A. I didn't know there was a second trip.

Q. You didn't see them go?—A. No.

Q. About how many men went over when you did?—A. I have to guess at it, I suppose a dozen, maybe more.

Q. Were some of them soldiers in uniform?—A. They were all soldiers—I am not certain but Mr. Patton might have went over.

Q. W. E. Patton?—A. Yes; he lived just below us; I have a kind of idea—it seems to me that he went over there—I wouldn't swear to it.

Q. Was everybody on the boat a soldier in uniform except yourself and Mr. Campbell and Capt. Erickson and possibly Mr. Patton, if he went?—A. Yes.

Q. Did Dr. Johnston and Mrs. Johnston go over on the same boat you did?—A. I don't know.

Q. Do you know when Dr. Johnston came there?—A. I can't tell the date.

Q. About what time?—A. They change doctors so often over there; I couldn't say.

Q. He came there some time during 1918, didn't he?—A. I think so.

Q. And came there to be the post surgeon?—A. Yes, sir.

Q. Did he live anywhere around Valdez Bay before he came there to be post surgeon?—A. I don't think so—not that I know of.

Mr. DIMOND. Is this an attempt to show that these soldiers who voted in the Valdez Bay precinct were illegal voters on any other ground than that they were not residents of the precinct 30 days?

Mr. RITCHIE. As to the most of them that would be the ground; there may be two or three that we have to object to on other grounds. To be perfectly frank with you we expect to show there were only five legal votes cast that day by civilians.

By Mr. DIMOND:

Q. Do you know when Dr. Johnston came to Fort Liscum, about?—A. I think it was in the fall of 1917.

Q. Did he come there as post surgeon?—A. Yes.

Q. Did he live anywhere else around Valdez Bay before he came there to be post surgeon?—A. No, sir; he came from Juneau, I believe.

(Witness excused.)

W. S. BECK.

Mr. RITCHIE. I have been sworn. I will state that I know Dr. Johnston very well, knew him when he was here. In the month of April I was in Juneau, Alaska—April, 1919—staying at the Gastineau Hotel for eight days. I met Dr. Johnston there every day for four or five days and when he left he told me that he was going to Sitka, which was his home; he lived there, I believe, for several years; Sitka had been his home until he was ordered to Fort Liscum to be post surgeon there.

E. E. RITCHIE.

#### DEPOSITION OF W. T. STUART.

W. T. STUART, a witness called and sworn in behalf of the contestant, testified as follows:

Direct examination by Mr. RITCHIE:

Q. Where do you reside?—A. I reside now in Valdez.

Q. In the town of Valdez?—A. Yes, sir.

Q. The town of Valdez has been your home most of the time for seven or eight years?—A. Yes, sir.

Q. Last year in the fall you were temporarily at one of the stations of the lighting plant across the bay from Valdez, were you not?—A. I was there for several months.

Q. And you were there on the 5th of November, 1918, and had been for more than 30 days previous?—A. Yes, sir.

Q. Did you vote on the 5th of November, 1918?—A. Yes, sir; on the voting day.

Q. At Valdez Bay precinct?—A. Yes; at the Granby.

Q. Known as the Valdez Bay precinct?—A. Yes, sir; the Granby office.

Q. For whom did you vote for Delegate to Congress?—A. Mr. Sulzer.

Q. Do you know any of the soldiers at the post, except a few of the Valdez boys—did you know them at that time?—A. No; just a few I met.

Q. You were stationed about a mile from there and had no occasion to go to the post?—A. No.

Q. Were you around the polls much that day?—A. No.

Q. Do you know what men and women over 21 years of age were living around the Granby wharf at that time; could you state of your own knowledge?—A. Mr. and Mrs. Cashman and Mr. and Mrs. Cook—

Q. That is Palmer Cook, the superintendent?—A. Yes, sir; and I saw Jeff Devinney over there.

Q. During the 30 days or about that prior to the election?—A. About that.

Q. From the 1st of October on?—A. Sometime from September on.

Q. Do you know of your own knowledge who was up at the Granby mine?—A. No; I had never been up there.

Q. Do you know C. O. Brauer?—A. Yes.

Q. Do you know where Mr. Brauer was living at that time, Mr. and Mrs. Brauer?—A. They were operating the upper plant—he was, rather.

Q. For the Light Co.?—A. For the Light Co.

Q. You were at the lower plant?—A. Yes; I was at the lower plant.

Q. Who else was at the lower plant besides yourselves?—A. Just ourselves.  
(Witness excused.)

W. T. STUART.

#### DEPOSITION OF J. P. SIMONS.

J. P. SIMONS, a witness called and sworn in behalf of the contestant, testified as follows:

##### Examination by Mr. RITCHIE:

Q. What is your name?—A. J. P. Simons.

Q. Are you an American citizen over 21 years of age?—A. I am.

Q. How long have you lived in the Territory of Alaska?—A. Since 1897, continuously.

Q. What is your present residence?—A. Valdez.

Q. How long have you lived at Valdez?—A. Since 1908; I came here in the spring from the interior.

Q. Were you a legal voter in Valdez on the 5th of November, 1918?—A. I was.

Q. Were you around the town of Valdez for some time—most of the time—for several weeks prior to the election?—A. I was.

Q. Are you acquainted with the United States Army boys here—men of the Signal Corps and Quartermaster Department around town?—A. Personally I am acquainted with them by sight, and friends with some of them.

Q. Did you talk with them more or less the before election last fall?—A. Talked with quite a few of them; yes.

Q. Did they make any statements as to how they themselves or the Signal Corps crowd generally, were going to vote?—A. They did—two of them especially, did.

Q. Who were they?—A. They called him Hoppy—Hopkins, I think, is his name; I didn't know his name; was never introduced to him, but he is always addressed as Hoppy; and another one is a man that used to be in South America or India named Noaks; I talked to him a good deal.

Q. Did Noaks make any statement to you as to the attitude of the soldiers politically?—A. He said they were all going for Sulzer, and Wickersham had a hopeless case.

Q. Wasn't the attitude of the Signal Corps and the Quartermaster Department in Valdez a matter of common knowledge just prior to and on election day—their attitude toward the delegateship from Alaska?—A. It was; it was expressed so to me and and commented on as such.

Q. Was it or was it not a matter of general repute and widely boasted of by the Democratic politicians that they, all or nearly all of them, were going to vote for Sulzer?—A. Yes; I heard it stated so.

(Witness excused.)

J. P. SIMONS.

(Whereupon this hearing was continued until Tuesday, September 2, 1919.)

## DEPOSITION OF CHARLES L. HEWES.

TUESDAY, SEPTEMBER 2, 1919.

CHARLES L. HEWES, a witness called and sworn in behalf of the contestant, testified as follows:

## Examination by Mr. RITCHIE:

Q. What is your name?—A. Charles L. Hewes.

Q. You are an officer of the United States Army?—A. Yes, sir.

Q. State what your rank and present assignment are?—A. Captain. I am captain, relieved of duty at present.

Q. If you were commandant at Fort Liscum, Alaska, within the last year, will you state during what period of time?—A. I assumed command at Fort Liscum on July 29, 1918. I was relieved of command by Capt. Overstreet on August 9, 1919.

Q. You were then commandant there on November 5, 1918.—A. Yes, sir.

Q. How many men in the Army were stationed at Fort Liscum in the early part of November, 1918?—A. I can't answer accurately—approximately 250, I should judge.

Q. Fort Liscum is a United States Army post on Valdez Bay, about 4 miles across the bay from the town of Valdez?—A. Yes, sir.

Q. And were soldiers last year assembled there under the conscription act, to be drilled and then sent to other places thereafter?—A. Yes; they were.

Q. And also for other purposes?—A. Yes, sir.

Q. And were there many regulars stationed there on the 5th of November, 1918?—A. No; I can't state how many, because they were at that time not regulars—they had been transferred into the United States Guards or were en route to Camp Lewis to be distributed in the Army.

Q. Most of the men there then were men classified as United States Guards?—A. Most of them, and drafted men.

Q. Do you personally know anything about these men voting at what is known as the Valdez Bay voting precinct, the voting place being about 1 mile from Fort Liscum, on November 5, 1918?—A. I do not.

Q. You don't know personally how many men went over there?—A. No.

Q. I exhibit to you here a certified copy of the register book of the Valdez Bay precinct giving a list of those who voted at the election for Delegate to Congress on the 5th of November, 1918. Will you take that list and go down the list of the names one at a time and state, so far as you can, where each man came from to Fort Liscum, to the best of your memory? When you don't know, of course, you will have to say so?—A. You mean when he came over to the post?

Q. Yes.—A. That doesn't mean his residence?

Q. So far as you know, where he came from to the post; and if you know his residence, state what his previous residence was.—A. I haven't the records with me and will have to give them to you the best I can from memory. Fred C. Hartman is the first name. As I recall it, he came from Valdez, Alaska.

Q. You first saw him at Fort Liscum when he came there?—A. Shortly after.

Q. Do you have any knowledge where he came from except general repute?—A. No; I have not.

Q. Did he ever state to you or anyone else who seemed to know him—state to you where he came from?—A. The only way I recall the place that this man came from, or any of these men, was from glancing at their draft papers or else in conversation with the men.

Q. A good many of them told you where they were from; did they?—A. Oh, yes.

Q. Now to the best of your recollection, go down the list—take the next man?—A. C. A. Edmund. I don't know; H. M. Lawrence. Latouche.

Q. A man drafted from Latouche?—A. A man drafted from Latouche. E. C. Reuter, Cordova.

Q. Did either of these men tell you they were from those places?—A. I received a letter from Mr. Fozard at Latouche, who is manager of the Latouche mine, that Lawrence was coming there, had been drafted and he would be a good man to have in the office.

Q. He was a clerical man?—A. Yes. Jerry T. Allen, the next man, was transferred, I believe, from the Fourteenth Infantry to the United States Guards, Company B.

Q. He was a Regular Army man previously?—A. Formerly. Pete Tessitore, I don't know. John Turner, I don't know. Charles Wyatt—I believe he came from Valdez, but I think prior to that time he was in Cordova and I believe he had an interest in a boat that was at Seward. John D. Chamberlain, McCarthy. Frank Forker, I don't know. John T. McEvoy was transferred from the Fourteenth somewhere in the States.

Q. He is a Regular Army man or had been?—A. Regular Army. Patrick McDermott came from somewhere on the Copper River Railroad, Copper River & Northwestern.

Q. That is, over on the Copper River, some distance away?—A. Between Cordova and Kennecott somewhere.

Q. Proceed.—A. Frank Poore, I believe Seward. Claude H. James, I don't know. Eric Myhberg, Cordova. A. J. Penttinen, the States. Edward P. Cashman—I presume that is a man at the Granby; he wasn't stationed at the Fort. Lysle D. Brown came from McCarthy. A. E. Rucker, Valdez. Sam Campbell, has been employed at the post for years. Joseph Newman was at the post when I arrived there.

Q. Was he a Regular?—A. Yes; Quartermaster's Department. E. A. Johnson, Cordova. R. B. Hamilton, from the States, a Regular. Fred C. Bretherston, Cordova. A. J. Davis, Katalla. Mrs. James W. Johnston was at the post when I arrived and their home was in Sitka; the same with her husband, Dr. Johnston. George F. Baker, Seward. W. S. Beck—he has been there, as a civilian employee at the post, for years. H. T. Anderson, Katalla, William N. Hoaring, I am somewhat in doubt but I believe Cordova. Bruce Rider, either Valdez or Ellamar. P. S. Truckey, Cordova, or perhaps Valdez.

Q. Do you know what his previous occupation had been? Did he ever talk to you about it?—A. He had been freight clerk, at one time—whether for more than one trip I don't know—for the Alaska Steamship Co., which is, I guess, practically the same concern as the Copper River & Northwestern Railroad, where Truckey has returned to his former position, in Cordova.

Q. You know he went back to Cordova?—A. He is there now, employed by them. B. Presley, Latouche, the Kennecott Copper Corporation. W. T. Stuart is a civilian; he was not at Fort Liscum—Mrs. E. P. Cashman the same.

Mr. RITCHIE. That's all.

By Mr. DIMOND:

Q. Do you know how long any of these men had been at Fort Liscum prior to November 5, 1918?—A. Some of them were there when I arrived at the post, July 29.

Q. Can you state whether or not all of them had been for 30 days at Fort Liscum prior to November 5?—A. A large majority were there for more than 30 days. If you would like to have me tell how I place the date I will do so.

Q. Yes; I would be very glad.—A. On the 6th day of October, that was Sunday, the steamer *Skagway* arrived at Valdez with piles for our dock extension. The men had arrived one or more days prior to that who volunteered to build the dock; a large number of these men were among that number.

Q. Can you say positively that any of those men were there for less than 30 days?—A. I can't state; the records of the draft board is about the only way that can be proven.

Q. There are no records at the post?—A. Not with that information.

Q. What was the status of the United States Guards—in what respect did they differ from the others?—A. The United States Guards were supposed to be composed of limited-service men, men not physically fit for overseas, and were sent to Liscum as guards for that post and the outposts.

Q. Were or were not all of the men retained, all of the men transferred to the United States Guards, retained in Alaska while you were commandant at the post?—A. There were men placed in the United States Guards not fit for physical reasons that were afterwards found physically fit and were sent outside; quite a number of them were transferred.

Q. And afterwards sent outside for other duties?—A. At least 20 in one lot were sent out to be distributed in the United States Army for service in France and elsewhere.

Q. Do you know whether the men mentioned in this list—Exhibit B—were residents of Alaska prior to their induction into the Army?—A. The majority of them, to the best of my knowledge, were residents of Alaska prior to that.

Q. Two of them you mentioned you say originally came from the States?—A. Penttinen and Hamilton; there may be others, I wouldn't say, that were transferred from the States to Fort Seward and later transferred here.

By Mr. RITCHIE:

Q. Do you personally know whether any of them had been in Alaska a year?—A. I can't answer that question.

Q. Where are the records now of these men that were at the post?—A. The records of the drafted men were all sent in in accordance with instructions of the provost marshal to the draft board from which they came or to Juneau.

Q. They are not at Fort Liscum?—A. No official record at Fort Liscum anyway.

Q. These men, however, as far as you know, came from the different places you mentioned when you were reading out their names?—A. Yes.

By Mr. DIMOND:

Q. You said in many instances that you didn't know; you mean you didn't know whether they were Army men or didn't know their residence?—A. I didn't know where they came from.

Q. They were soldiers in the Army?—A. Yes; except Cashman.

Q. They were soldiers but you don't know where they came from?—A. I don't know the place they came from.

Q. Were any of these soldiers at Fort Liscum residing or did any of them to your knowledge have a residence in the Valdez Bay precinct at any time previous to the election day outside of the post—did they live in the Valdez Bay precinct anywhere outside of the Army post, to your knowledge, prior to election day?—A. I think some, such as Rucker, had a residence in Valdez.

By Mr. RITCHIE:

Q. The question is, outside of the military reservation, did any of them live in the Valdez Bay precinct—Rucker's home was in Valdez, not in the Valdez Bay precinct?—A. Do you refer to the Valdez Bay voting precinct as the Granby?

Q. Yes. None of these men resided elsewhere than on the military reservation?—A. Not to my knowledge.

(Witness excused.)

(Hearing adjourned until Thursday, September 4, 1919.)

It is stipulated by the parties that the testimony of Capt. C. L. Hewes given at the hearing before J. L. Reed, notary public, in behalf of the contestant, may be made a part of the record without his signature thereto.

This stipulation is made because Capt. Hewes removed from Valdez to Anchorage before the stenographer had transcribed his notes of Capt. Hewes's testimony.

E. E. RITCHIE,  
*Attorney for Contestant.*  
ANTHONY DIMOND,  
*Attorney for Contestee.*

#### DEPOSITION OF JOSEPH NEWMAN.

THURSDAY, SEPTEMBER 4, 1919.

JOSEPH NEWMAN, a witness called and sworn in behalf of the contestant, testified as follows:

Direct examination by Mr. RITCHIE:

Q. What is your name?—A. Joseph Newman.

Q. What is your business at the time?—A. Firing on the *Donaldson*.

Q. Are you in the United States Army?—A. Yes, sir.

Q. What is your rank?—A. First-class private in the Quartermaster Corps.

Q. And where are you stationed at this time?—A. Fort Liscum, Alaska.

Q. That is across the bay from the town of Valdez?—A. Yes, sir.

Q. How long have you been at Fort Liscum?—A. Since the last of September, 1911.

Q. And you have been in the Regular Army, stationed at that post, continuously ever since?—A. Yes, sir.

Q. Where did you join the Army?—A. Buffalo, N. Y.

Q. What year?—A. 1908.

Q. And for some time past you have been fireman on the launch *Donaldson*, you say?—A. Yes, sir.

Q. Which is the post launch which runs from the post to the town of Valdez and elsewhere when required?—A. Yes, sir.



Q. You were running on the launch *Donaldson* on election day, November 5, 1918?—A. Yes, sir.

Q. Did the launch take any men from Fort Liscum to the office of the Granby Mining & Smelting Co., which is the voting place of the Valdez Bay precinct, on that day?—A. We made two trips.

Q. Do you remember how many men you took?—A. An average of about 30, I think.

Q. Did you take any men except soldiers?—A. Yes; we took Dr. Johnston and his wife.

Q. Dr. Johnston was the surgeon at the post?—A. Yes.

Q. And he was an officer, a lieutenant in the Army at that time?—A. Yes, sir.

Q. Did you take anybody over there excepting men in uniform?—A. Yes; we took Mr. Beck and the chief engineer of the *Donaldson*, Sam Campbell.

Q. And all the others that went on the boat from Fort Liscum to the Valdez Bay precinct, or Granby dock, were soldiers in uniform, soldiers or officers?—A. Yes, sir.

Q. Did you know all of them personally?—A. No, sir; I did not know them personally.

Q. Did you know Fred Hartman?—A. Yes, sir.

Q. Do you know where he came from to Fort Liscum?—A. Valdez.

Q. How long have you known him?—A. I knew him a couple of years previous to the election.

Q. Do you know C. A. Edmund?—A. Yes, sir.

Q. Where did he come from to the post?—A. He came from Cordova.

Q. Do you know H. M. Lawrence?—A. I wouldn't say for sure, I am not certain I know him, but he came from around Cordova somewhere.

Q. You remember a soldier named Lawrence?—A. Yes.

Q. And you think he came from Cordova?—A. I think so; I wouldn't be sure of it.

Q. Did he come from the town of Valdez or around Valdez Bay?—A. No.

Q. Did you know E. C. Reuter?—A. Yes, sir.

Q. Where did he come from?—A. Cordova.

Q. Did you know Jerry T. Allen?—A. Yes; he is a Regular Army man.

Q. He came up there with the Fourteenth?—A. Yes; he came up when they came up in 1914, I think.

Q. From the States?—A. Yes.

Q. And has been there ever since?—A. Yes, sir.

Q. Do you know a man named Pete Tessitore?—A. He came from up around Seward—he is a drafted man.

Q. Do you know John Turner?—A. No, sir; he has never been around here, he was a drafted fellow.

Q. He came from some place away from Valdez?—A. Yes, sir.

Q. Do you know Charles Wyatt?—A. No.

Q. John D. Chamberlain?—A. No.

Q. Frank Forker?—A. No.

Q. Do you know John T. McEvoy?—A. Yes, sir.

Q. Where is he from?—A. The States.

Q. Is he a Regular?—A. He belongs to the United States Guard.

Q. Do you know Patrick McDermott?—A. I don't know him.

Q. Frank Poore?—A. No, sir.

The NOTARY. Do you know whether they are soldiers or not?—A. They are all soldiers.

Q. Do you remember them at all?—A. I remember them, yes, but they are not around here.

Q. Do you know whether John Turner was a soldier?—A. He was a drafted man—of course he was a soldier for the time being.

Q. And you remember Charles Wyatt?—A. No, sir.

Q. Or Chamberlain?—A. No.

Q. Do you remember Forker at all?—A. I couldn't place him.

Q. McDermott—do you remember him?—A. No.

Q. And Poore?—A. No.

Q. Do you remember Claude H. James?—A. No, sir.

Q. Eric Myhberg?—A. He is from Cordova.

Q. A. J. Penttinen?—A. I don't know where he is from, but he is a drafted man.

Q. Lysle D. Brown?—A. No, sir.

- Q. A. E. Rucker?—A. He is from Valdez.  
 Q. From the town of Valdez?—A. Yes, sir.  
 Q. Sam Campbell is a civilian, employed at the post?—A. Yes, sir.  
 Q. Joseph Newman is yourself?—A. Yes.  
 Q. E. A. Johnson?—A. Is that Dr. Johnson?  
 Q. No; E. A. Johnson.—A. He is from down around Cordova somewhere, either there or Seward.  
 Q. R. B. Hamilton?—A. He was from the States.  
 Q. A Regular?—A. No, sir; he belongs to the United States Guards.  
 Q. Fred C. Bretherson?—A. He is from Cordova.  
 Q. A. J. Davis?—A. I think he is from Cordova, I am not sure.  
 Q. Mrs. James W. Johnston and James W. Johnston were the doctor and his wife?—A. Yes, sir.  
 Q. George F. Baker?—A. I don't know him.  
 Q. H. T. Anderson?—A. He is from Cordova.  
 Q. Bruce Rider?—A. He is from Valdez, the city of Valdez.  
 Q. William N. Hoaring?—A. I think he is from Cordova, I am not sure.  
 Q. P. S. Truckey?—A. From Cordova; I think he is from Cordova, too.  
 Q. B. Presley?—A. I think he is from Cordova, too; I am not sure.  
 Q. You have lived around Valdez for eight years; are you pretty well acquainted with the young men of Valdez and vicinity?—A. Well, I am pretty well, but not much acquainted with them, only meeting them once in a while, and would know who they are.  
 Q. Did you know the men that worked at the Granby for a considerable length of time?—A. Well, I could tell them if I saw them.  
 Q. Can you say whether any of these drafted men that came to the post were employees of the Granby mine?—A. No; they were not; none of them.  
 Mr. RITCHIE. That is all.

By Mr. DIMOND:

- Q. Were you in the United States Army when you came here?—A. Yes, sir.  
 Q. And have been in the Army ever since?—A. Yes, sir.  
 Q. I suppose you have reenlisted from time to time?—A. Yes, sir.  
 Q. Was there any considerable period between your reenlistments?—A. No.  
 Q. Usually you were discharged on one day and—A. And reenlisted inside of 24 hours.  
 Q. You reenlisted inside of 24 hours thereafter?—A. Yes, sir.  
 Q. Did you vote in the Valdez Bay precinct at the last election?—A. I voted at the Granby.  
 Q. That is in the Valdez Bay precinct?—A. Yes, sir.  
 Q. Do you mind saying for whom you voted?—A. I voted the straight Republican ticket.  
 Q. Had you voted over there previously?—A. Only just at these elections.  
 Q. You have voted at every election for several years?—A. Yes.  
 Q. I have forgotten when you said you came to the country.—A. I came up here in 1910.  
 Q. And did you vote at the election in 1912, do you recollect?—A. No, sir; I didn't vote then.  
 Q. Did you vote in 1914?—A. Yes.  
 Q. That is the time Judge Bunnell ran against Wickersham?—A. Yes, sir.  
 Q. And you voted in 1916?—A. Yes.  
 Q. And in 1918?—A. Yes.  
 Q. Did you vote at this last special election?—A. I voted last November, when all the rest did.  
 Q. Last April, I mean?—A. At the primaries, you mean?  
 Mr. RITCHIE. He means in June.  
 A. No; I did not.  
 Q. I mean when Mr. Grigsby ran against a man in Ketchikan?—A. No; they didn't seem to want to let us come over then.  
 (Witness excused.)

JOSEPH NEWMAN.

#### BOUNDARY STIPULATIONS.

It is stipulated by E. E. Ritchie, attorney for the above-named contestant, and by Anthony J. Dimond, attorney for conestee, that the boundaries of Valdez Bay voting precinct, as defined by the order of the commissioner of Valdez com-

missioner's precinct, for the general election of 1918, occurring November 5, 1918, were as follows, to wit:

Commencing from the northeast corner of the Valdez recording district running westward along the northerly line of said recording district to the western boundary of said district; thence southerly along the western boundary of said recording district to a point opposite the head of Port Nellie Juan; thence east and along the northerly line of the Latouch voting precinct to its intersection with the east boundary line of said Valdez recording district between Montague and Hinchinbrook Island; thence northeasterly to Point Gravina; thence west and northerly along the boundary line of Ellamar Fidalgo voting precinct, thence southwest and north along the western voting precinct to Rocky Point; thence along the southern shore line of Galena Bay to the head of said bay; thence due east to the intersection of the eastern boundary line of the said Valdez recording precinct; thence northeasterly along the boundary line of said Valdez recording precinct to place of beginning, and the voting place in said precinct for said election shall be the office of the Granby Consolidated, Mining, Smelting, and Power Co. on the beach at the Granby mine.

It is further stipulated that there is no town within the boundaries of said voting precinct, and that all the towns referred to in the parol testimony taken at Valdez in the above-mentioned proceeding are outside said Valdez Bay precinct. This stipulation is to be marked as an exhibit by the reporter and made a part of the record of testimony taken at Valdez.

E. E. RITCHIE,

*Attorney for Contestant.*

ANTHONY J. DIMOND,

*Attorney for Contestee.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Town of Valdez, ss:*

I do hereby certify that the above and foregoing is a full, true, and correct transcript of the proceedings had before me as notary public at my office in the town of Valdez, Alaska, on the 23d day of August, 1919, at hearings held at that time and subsequent thereto, in pursuance to the attached notices of taking depositions issued and in compliance therewith.

Dated at Valdez, Alaska, October 9, 1919.

[SEAL.]

J. L. REED,

*Notary Public for Alaska.*

My commission expires April 28, 1922.

Pursuant to notice hereto attached, I, W. H. Case, a notary public in and for the Territory of Alaska, did, on the respective dates hereinafter mentioned, take the depositions of the witnesses above named, which are hereto attached.

The depositions of Mrs. Ingev Olsen, Martin Olsen, Edward Olsen, and Joseph McComb were taken at Warm Springs Bay, Baranof post office, Alaska, beginning at 8 o'clock a. m. on August 23, 1919, John B. Marshall, Esq., being present on behalf of contestant and no one appearing for contestee.

The depositions of Ernest Kirberger were taken at Kake, Alaska, on August 23, 1919, beginning at 8 o'clock p. m., John B. Marshall, Esq., being present on behalf of contestant and no one appearing for contestee.

The depositions of Frank Desmond were taken at Wrangell, Alaska, on August 25, 1919, having been adjourned from the hour set therefor until 6 o'clock p. m., John B. Marshall, Esq., appearing on behalf of contestant and Henry Roden, Esq., appearing on behalf of contestee.

The depositions of Philip F. McQuillan, H. W. Whitman, Ralph N. Cummins, and Harvey B. Conover were taken at 10 o'clock a. m. at Sitka, Alaska, on August 30, John B. Marshall, Esq., being present on behalf of contestant and no one appearing for contestee.

The depositions of Guy B. Hawley, which were to have been taken at Sitka, Alaska, on August 30, 1919, were continued on account of the fact that said Hawley had been ordered by his superior officers in the Signal Corps of the United States Army to report for duty at Juneau, Alaska, and were taken at said Juneau, Alaska, on September 3, 1919, at 11.45 o'clock a. m., at the office of John B. Marshall, 418 Goldstein Building, the said John B. Marshall being present on behalf of contestant, and ——— appearing for contestee.

That each of the foregoing depositions were taken at the times and places specified in the notice of the taking thereof, except that the depositions of the

witnesses at Sitka were taken in the store building of W. P. Mills, having been adjourned from the commissioner's office at Sitka for the reason that said office was at the time undergoing repairs by a force of carpenters.

The said depositions are hereinafter set forth in full.

In witness of the foregoing I have hereunto set my hand and official seal at Juneau, Alaska, this 3d day of September, 1919.

[SEAL.]

W. H. CASE,  
*Notary Public for Alaska.*

My commission expires August 16, 1923.

DEPOSITION OF MRS. INGEV OLSEN.

Mrs. INGEV OLSEN, being first duly sworn, deposes and says in answer to direct examination by John B. Marshall:

Q. Mrs. Olsen, the name of your husband is Martin Olsen?—A. Yes.

Q. Is he a citizen of the United States?—A. Yes.

Q. You also have a son, Edward Olsen?—A. Yes.

Q. And you and your husband and son are each over the age of 21 years and qualified voters?—A. Yes.

Q. How long have you and your husband and son lived at Warm Springs Bay?—A. Six years.

Q. Please state whether or not you and your husband and son voted for any candidate for Delegate to Congress at the election held November 5, 1918, and, if so, for whom you voted?—A. We each voted for Judge Wickersham for Delegate at that election.

Q. How do you know that your husband and son voted for Judge Wickersham?—A. They both told me so, and last spring my son made an affidavit that he voted for Wickersham.

INGEV OLSEN.

Subscribed and sworn to before me this 23d day of August, 1919.

[SEAL.]

W. H. CASE,  
*Notary Public for Alaska.*

My commission expires August 16, 1923.

DEPOSITION OF MARTIN OLSEN.

MARTIN OLSEN, being first duly sworn, deposes and says, in answer to direct examination by John B. Marshall:

Q. State your name, age, and place of residence.—A. Martin Olsen; age, 52; residence, Baranof or Warm Springs Bay, Alaska.

Q. Are you a citizen of the United States and a qualified voter under the laws of Alaska?—A. I am.

Q. Were you a resident of the Baranof voting precinct on November 5, 1918, and had you been such resident for more than 30 days?—A. I am such resident, and had been for six years.

Q. If you voted for any candidate for Delegate to Congress on said 5th of November, 1918, for whom did you vote?—A. For James Wickersham.

MARTIN OLSEN.

Subscribed and sworn to before me this 23d day of August, 1919.

[SEAL.]

W. H. CASE,  
*Notary Public for Alaska.*

My commission expires August 16, 1923.

DEPOSITION OF EDWARD OLSEN.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

EDWARD OLSEN, being first duly sworn, in answer to direct examination by John B. Marshall, says:

Q. Are you a qualified voter in the Baranof voting precinct, Alaska?—A. Yes; I am 32 years of age, and have resided in Alaska 16 years and in the Baranof voting precinct 6 years.

Q. If you voted for any candidate for the office of Delegate to Congress on November 5, 1918, for whom did you vote?—A. For James Wickersham.

EDWARD OLSEN.

Subscribed and sworn to before me this 23d day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

DEPOSITION OF JOSEPH M'COMB.

JOSEPH McCOMB, being first duly sworn, deposes and says. In answer to direct examination by John B. Marshall:

Q. Please state whether or not you are a citizen of the United States and a qualified voter under the laws of Alaska.—A. I am.

Q. Had you on November 5, 1918, been a resident of the Territory of Alaska for more than one year, and of Baranof or Warm Springs voting precinct more than 30 days?—A. I had.

Q. If you voted for a candidate for Delegate to Congress on November 5, 1918, please state for whom you voted.—A. I voted for James Wickersham for Delegate.

JOSEPH McCOMB.

Subscribed and sworn to before me this 23d day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

DEPOSITION OF ERNEST KIRBERGER.

ERNEST KIRBERGER, a witness for the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Please state your name and place of residence.—A. Ernest Kirberger, Kake, Alaska.

Q. Is Kake in the Kake voting precinct in the first division?—A. It is.

Q. Were you on November 5, 1918, a resident of said voting precinct?—A. I was.

Q. Had you lived in said precinct at said time for more than 30 days?—A. Yes; I had lived there for a number of years and still live there.

Q. If you voted at the Kake voting precinct at said election for any candidate for Delegate to Congress, will you please state for whom you voted?—A. I voted for Judge Wickersham for Delegate to Congress.

Q. Are you acquainted with J. A. Snow, of Juneau, Alaska, formerly a special agent for the suppression of the liquor traffic among the Indians and now assistant city wharfinger at Juneau?—A. I am.

Q. Did the said J. A. Snow vote at the election held at Kake, Alaska, on November 5, 1918?—A. He did.

Q. Can you say for whom he voted?—A. He must have voted for Charles A. Sulzer, as I cast the only ballot at said voting precinct that was cast for Judge Wickersham.

Q. Had the said J. A. Snow at that time been a resident of the Kake voting precinct for more than 30 days?—A. He had not; he was passing through Kake on that day on a steamer which stopped for a few hours at the cannery near Kake, and while the steamer was at the dock he came over to Kake and voted.

Q. Do you know the legal residence of the said J. A. Snow?—A. I have always understood that he lived at Juneau, but I am informed that during the summer of 1918 he was employed at and around Kasaan, Alaska, which is perhaps 100 or more miles from Kake.

ERNEST KIRBERGER.

Subscribed and sworn to before me this 23d day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.



## DEPOSITION OF FRANK DESMOND.

FRANK DESMOND, a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is Frank Desmond?—A. Yes, sir.

Q. What is your race; that is, are you a native or otherwise?—A. I am a half-breed.

Q. Were you born in Alaska?—A. Yes, sir.

Q. Where were you living on November 5, 1918, at the time of the general election held last fall?—A. In Douglas and Juneau.

Q. Did you at that time take any part in election matters?—A. I did.

Q. At whose request?—A. At the request from—I don't know the gentleman's name; I think he is the prosecuting attorney or Government lawyer; I don't know his name.

Q. What kind of a looking man was he?—A. He is a middle-aged man.

Q. How did you come to meet him?—A. He called up for me.

Q. He called up personally?—A. I didn't know at the time, but they told me they wanted me at the courthouse.

Q. Who told you?—A. Mike George.

Q. To whose office did Mike George tell you to go?—A. To Judge Henson's, in the court room at Douglas.

Q. When you got there, what happened?—A. I got in there and I met a gentleman—I don't know his name, but he is the one that had these papers—and he told me he got information from Seward Kunz that I understood about the natives in Alaska, and he said, "I have some papers and I want you to distribute them amongst them, to those who live separate and apart from their own tribe and like the white men."

Q. Did he say anything else?—A. So I goes to work, and I says the Indians have been refused a vote, and I don't believe they can vote unless they are citizens. "Well," he says, "these take the place of citizens' papers; they have got a vote and they can't refuse them." So I said, "All right."

Q. What did you do with those papers?—A. I took them around to the boys I know among the natives and gave them to them. And I told them what it was for, to go and vote on it, and they told me they had been refused already from the election officers, and I told them these papers here will take you through.

Q. Do you know what was written on the papers that you gave them?—A. No; I didn't notice it.

Q. Did you give them a paper like the paper which I now show to you [exhibiting to the witness a Democratic sample ballot and requesting the notary to mark the same for identification, so that it might be used later]?—A. No; they got them before that; they were taken all over town to everybody; I didn't have any of this kind.

Q. How many of the natives did you distribute these papers to?—A. I couldn't swear to it, because I didn't keep track of it.

Q. Did you give one to Jimmy Fox?—A. I don't know; I couldn't swear to that; I gave one to Daniel Josephs that I know of, one to Edward Marshall, one to Gilbert Jackson, and I took one down to Paddy Brady, but his father objected to it. He is a young, heavy-set native. I am not sure whether his first name is Paddy or not.

Q. You signed an affidavit last spring in regard to this matter?—A. Yes, sir.

Q. I will read you a copy of the affidavit and ask you if it is correct?

"UNITED STATES OF AMERICA, *Territory of Alaska*, ss.

"Frank Desmond, over the age of 21 years, being by me first duly sworn, on oath deposes and says: That he was born in Alaska and of white and native parentage; that he was in Douglas voting precinct, first division, in the town of Douglas Alaska, on November 5, 1918, at the time of the general election for Delegate to Congress; that he was then acquainted with Assistant District Attorney John J. Reagan, and met him in said town on said date. Prior to the close of said election said Reagan engaged this affiant in distributing some blank affidavits for the native Indians to sign, which were given to me for that purpose by the said Reagan; that said affidavits alleged that each of said Indians had severed his tribal relations; had adopted the habits of civilized life and was entitled to cast his ballot as a citizen at said election; that there was

a certificate on each said blank affidavit, signed by United States District Attorney James A. Smiser, certifying that the Indian who signed the said affidavit was entitled to vote; that at the request of said Reagan I delivered said affidavits and certificates to several of said Indians, some of whom signed the same and voted at this election.

"FRANK DESMOND.

"Subscribed and sworn to before me this 5th day of May, 1919.

"JOHN E. WORDEN,

*"Notary Public for Alaska, residing at Wrangell."*

Did you sign that?—A. I did, sir.

Q. Are the statements in there true?—A. What you were reading was all the truth.

Q. How do you know that this man you met was Mr. Reagan?—A. All the way I know is, they told me he was a Government lawyer; I don't know the gentleman's name, though.

Q. In here, however, you say his name is Reagan?—A. That is what that man that owns the store in Douglas told me—Mike George.

Q. You were not introduced to the man?—A. No, sir.

Q. But you just went into Henson's office and he asked you to do this?—A. Yes, sir.

Q. Did you have any conversation with Frank Bach, or George Johnson, the deputy marshal, at Douglas, on that day?—A. No; not that I know of.

Q. Did you have any conversation with Judge Henson?—A. No, sir.

Q. Do you know who Jimmy Fox is?—A. Yes; I do.

Q. Did you hear about that matter of his becoming chief in place of old Anna-kla-hash, who died?—A. Well, I heard about it; yes.

Q. What did you hear?—A. I told him I heard he was going to be a chief and he told me he didn't know who put that thing up. And when he read that about him in the newspaper he laughed about it; he swore to it that he was not guilty of that particular thing—of wanting to take Anna-kla-hash's place.

Q. Did these papers that you distributed have the name of Mr. Smiser signed to them?—A. I didn't notice what was on the paper.

Q. Did they have any name signed in pen and ink?—A. I couldn't swear to that.

Q. Was it a printed paper, or typewritten?—A. Typewritten.

Q. Who was present when this man gave you these papers?—A. Judge Henson.

Q. No one else?—A. That is all I know of.

Cross-examination by Mr. RODEN:

Q. You don't know whether the man that gave you these papers was Mr. Reagan or not?—A. No, sir.

Q. Who asked you to make this affidavit that was read to you?—A. I didn't make an affidavit.

Q. You didn't swear to that affidavit?—A. I was called in after it was made out.

Q. Who asked you to sign it?—A. This man that runs a store, Peter McCormick.

Q. That is the Republican representative in the Alaska Legislature?—A. I don't know the gentleman at all.

Q. Did he have it finished when you came in there?—A. Yes, sir; everything was made out. First he called me in the store and asked me if I took papers around over in Douglas at the time the election was going on. I said, yes. That is all I want to find out, he said; I will see you later on. About a week later he called me in, and that is the time he had that affidavit for me, and asked me if I was not willing to sign it. He said there was no harm in that; he just wanted to straighten out the thing and find out about it. He said, "Can't you swear you took the papers around." and I said, "Yes; I took them around."

Q. You didn't read the thing?—A. No; he read it to me.

Q. You can read English, can't you?—A. I can read some.

Q. And you have been to school, haven't you?—A. Yes.

Q. So, when it says here in that affidavit that on the 5th day of November, 1918, you were acquainted with John Reagan, he put something in there that

isn't quite true, didn't he?—A. I didn't know the gentleman's name at the time, but I mentioned that he was there; of course, I didn't remember all the words on that.

Q. Did any of the natives sign that paper?—A. Yes.

Q. They didn't go before a notary and swear to it, did they?—A. No.

Q. You have told Mr. Marshall that you didn't see Mr. Smiser's signature on that paper?—A. No, sir.

Q. But you don't know whether there was a signature to it or not?—A. No; I couldn't swear to that.

Q. And you have already stated that you didn't see any of the Indians sign these papers?—A. No, sir.

Q. You gave these papers to about three or four of the natives around there?—A. I didn't keep track of how many I gave out.

Q. But you just gave to some you knew?—A. The ones I knew of that live like the white men, that the man told me to do.

Redirect examination by Mr. MARSHALL:

Q. Has anyone else talked to you about the distribution of those papers?—A. No, sir.

Recross-examination by Mr. RODEN:

Q. The man that gave you these papers, did he ask you to give them to the natives that live like white men?—A. Yes, sir; he told me to do so.

Q. Did he leave it entirely to your judgment as to whether the natives were such as were qualified to vote or not?—A. As I said before, these Indians that have been trying to live like the white man went up and wanted to vote, and their vote was refused, and when they refused them the vote they made out these papers on the Juneau side, especially for the natives.

Q. And they had been to the place before and were refused the right to vote?—A. Yes.

Q. You know that the men you gave these papers to lived like white men?—A. I do.

Q. What is your address?—A. I live here in Wrangell now.

F. DESMOND.

Subscribed and sworn to before me this 25th day of August, 1919.

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

#### DEPOSITION OF PHILIP F. McQUILLAN.

PHILIP F. McQUILLAN, a witness called on behalf of James Wickersham, having been first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is P. F. McQuillan?—A. Philip F. McQuillan.

Q. Mr. McQuillan, you are in the service of the United States Army, in the Signal Corps?—A. Yes.

Q. How long have you been in such service?—A. Altogether about 22 years.

Q. Where did you enlist in the service?—A. In Rochester, N. Y.

Q. How long have you been continuously in the service?—A. Since 1906.

Q. If you have ever resided in Alaska at any time when you were not in the military service, please state when and for how long a period.—A. I was out of the service and a resident of Alaska while out of the service for the period of about nine months.

Q. You then reenlisted in the service and have been in the service ever since?—A. Yes.

Q. For whom did you vote and where for the office of Delegate to Congress from Alaska on November 5, 1918?—A. I voted for Charles A. Sulzer, at Sitka, Alaska.

PHILIP F. McQUILLAN.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

## DEPOSITION OF H. W. WHITMAN.

H. W. WHITMAN, a witness on behalf of James Wickersham, being first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is H. W. Whitman, is it not?—A. Yes.

Q. You are enlisted in the service of the United States Army, in the Signal Corps?—A. Yes, sir; I am in the reserve period.

Q. How long have you been in Alaska?—A. I have been in Alaska, I think it is since June 5, 1914.

Q. Where were you enlisted in the Army?—A. At New Orleans, La.

Q. Have you ever lived in Alaska except while engaged in the service of the United States Army?—A. I have not.

Q. Did you at the general election, held on November 5, 1918, cast a ballot for any candidate for Delegate to Congress?—A. I did.

Q. For whom?—A. I object.

Q. Do I understand that you refuse to answer the question?—A. Until I have information that I would not incriminate myself, and because I object to disclosing the secrecy of the ballot, I do refuse to answer.

Q. I will say this: That the offense, so far as it is an offense, is not in voting for some particular person, but in voting at all, and if you are subject to criminal prosecution for voting, you have already stated that you voted, and if there is any violation of the law the proof is already conclusive that you have violated it if there is any guilt under the circumstances under which you voted, and telling for whom you voted will not make any difference?—A. I understand that; I also believe that I am entitled to a vote under the law as the law has been explained to me.

Q. I will read to you a decision of a committee of Congress in the contest over the election of 1916, from the bottom of page 15. I will not put this decision in the record, but will read it to you and you can look on as I read it, and see that it is correctly read [reads report]—and I will ask you now if you will answer the question for whom you voted on November 5, 1918?—A. I will answer that under protest, that I voted for Judge Wickersham; that is under protest, too; I don't believe you have any right to ask me.

Q. And you also make that answer under oath?—A. Under oath and under protest.

Q. Do you mind telling me why, when Judge Wickersham was anxious to get this information, and sent me here for the purpose, and you were requested to give the information, presumably as a favor to him, why you insisted upon refusing to answer heretofore?—A. Because I believe in the secrecy of the ballot, and always did believe in it.

H. W. WHITMAN.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

## DEPOSITION OF RALPH N. CUMMINS.

RALPH N. CUMMINS, a witness produced on behalf of James Wickersham, contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is Ralph N. Cummins?—A. Yes.

Q. Mr. Cummins, you are a resident of Sitka?—A. Yes.

Q. How long have you been a resident here?—A. I came here on the 12th of May, 1917.

Q. At the time you came here what was your occupation?—A. Cable operator.

Q. That means that you were in the service of the United States Army?—A. Yes.

Q. In that service you enlisted for a given period of time, did you not?—A. Yes.

Q. Have you ever been in any other employment since you came to Alaska?—A. No. I was in the service a part of the time as a Morse operation on the trail.

Q. But still in the service of the United States Army?—A. Yes.

Q. You were enlisted outside of Alaska—in the States?—A. Yes.

Q. Did you cast a ballot for any candidate for Delegate to Congress at the election held on November 5, 1918?—A. Yes.

Q. For whom did you vote?—A. I voted for Mr. Sulzer.

RALPH N. CUMMINS.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

DEPOSITION OF HARVEY B. CONOVER.

HARVEY B. CONOVER, a witness on behalf of James Wickersham, having been first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Mr. Conover, what is your full name?—A. Harvey B. Conover.

Q. You are now no longer in the service of the United States Army?—A. No, sir; I am not.

Q. Were you in such service on the 5th day of November last?—A. I was.

Q. How long had you then been in the service?—A. I enlisted on July 2, 1917.

Q. Where did you enlist?—A. At St. Louis, Mo., Jefferson Barracks.

Q. When were you discharged from the service?—A. May 19, 1919.

Q. Had you ever lived in Alaska, except in the service of the United States Army, up until the time of your discharge last May?—A. No, sir.

Q. Did you cast a ballot for any candidate for Delegate to Congress at the general election held on November 5, 1918?—A. Yes.

Q. For whom did you cast a ballot?—A. For Mr. Sulzer.

HARVEY B. CONOVER.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

DEPOSITION OF GUY B. HAWLEY.

GUY B. HAWLEY, a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is Guy B. Hawley?—A. It is.

Q. What is your occupation?—A. I am a sergeant in the Signal Corps service of the United States Army.

Q. Where did you reside on November 5, 1918?—A. At Sitka, Alaska.

Q. Did you cast a ballot for any candidate for Delegate to Congress from Alaska, at the election held on November 5, 1918, and if so where did you cast such ballot?—A. I did cast a ballot, at the polling place in the town of Sitka, Alaska.

Q. For whom did you cast your ballot for Delegate to Congress at such election?—A. For Mr. Sulzer.

Q. Were you at that time a member of the Signal Corps service of the United States Army?—A. I was.

Q. Where had you enlisted in such service?—A. At Fort Lawton, Wash.

GUY B. HAWLEY.

Subscribed and sworn to before me this 3d September, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

I, W. H. Case, a notary public in and for the Territory of Alaska, do hereby certify that the foregoing depositions were taken by me in the manner and form hereinafter set forth, to wit:

The depositions of Mrs. Ingev Olsen, Martin Olsen, Edward Olsen, and Joseph McComb, were, in my presence, as the questions were asked and the answers



given, written down in longhand, and in my presence read over, sworn to and signed by the respective witnesses; the depositions of Kirberger were in the same manner reduced to typewriting as the same were given, and read over and sworn to and signed by the witness in my presence; the depositions of Frank Desmond were taken down in shorthand in my presence, and were thereafter reduced to typewriting and read to the witness at his request, and by him sworn to and subscribed in my presence; the depositions of P. F. McQuillan, H. W. Whitman, Ralph N. Cummins, Harvey B. Conover and Guy B. Hawley, were taken down in shorthand in my presence and thereafter reduced to typewriting, read by the respective witnesses and sworn to and subscribed by them in my presence.

And I do further certify that before testifying, each of said witnesses was by me duly sworn to tell the truth, the whole truth, and nothing but the truth.

In witness whereof, I have hereunto set my hand and official seal this 3d day of September, 1919.

[SEAL.]

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

*To the above-named contestee and his agents and attorneys, J. A. Hellenthal and John R. Winn, Esqs.:*

Take notice, at before W. H. Case, a notary public for the Territory of Alaska, I will take the testimony, at the places and times hereinafter stated, of the following-named witnesses on behalf of contestant, to wit:

On Saturday, August 23, 1919, at the hour of 8 o'clock a. m., I will take the testimony of Martin Olsen, Edward Olsen, Mrs. Ingev Olsen, and Joseph McComb, the residence of each of whom is at Warm Springs Bay (Baranof post office), Alaska, at the post office at said Warm Springs Bay.

On Saturday, August 23, 1919, at the hour of 8 o'clock p. m., I will take the testimony of Ernest Kirberger, whose residence is at Kake, Alaska, at the store of the said Ernest Kirberger at said Kake, Alaska.

On Monday, August 25, 1919, at the hour of 10 o'clock a. m., I will take the testimony of C. B. Ferguson and Frank Desmond, the former of whom resides at Craig, Alaska, and the latter at Wrangell, Alaska, at the office of the United States commissioner at said Wrangell, Alaska.

On Saturday, August 30, 1919, at the hour of 10 o'clock a. m., I will take the testimony of P. F. McQuillan, H. W. Whitman, G. B. Hawley, R. N. Cummins, and Harvey B. Conover, who reside at Sitka, Alaska, at the office of the United States commissioner at said Sitka, Alaska.

And you will further take notice that the taking of the depositions of said witnesses will be continued from time to time until completed.

JAMES WICKERSHAM, *Contestant*,  
By JOHN B. MARSHALL, *Attorney*.

Service of a copy of the foregoing notice is admitted this 21st day of August, 1919.

J. A. HELLENTHAL,  
*Attorney for Contestee*.

*To P. F. McQuillan, H. W. Whitman, G. B. Hawley, R. N. Cummins, and Harvey B. Conover, greeting:*

Pursuant to notice heretofore given, you and each of you are hereby summoned to be and appear before W. H. Case, a notary public in and for the Territory of Alaska, at the United States commissioner's office in the town of Sitka, Alaska, at the hour of 10 o'clock a. m. on Saturday, August 30, 1919, then and there to testify as witnesses on behalf of Hon. James Wickersham, the contestant above named.

This subpoena is issued and your attendance required by virtue of the authority conferred upon me by the statutes of the United States governing contested elections.

Witness my hand at Juneau, Alaska, this 21st day of August, 1919.

W. H. CASE,  
Notary Public for Alaska.

My commission expires August 16, 1923.

## DEPOSITION OF WILLIAM T. BARR.

Pursuant to notice the testimony of WILLIAM T. BARR was taken before me, Joseph C. Dehn, a notary public in and for Alaska, at my office in the town of Tanana, Alaska, at 9 o'clock in the forenoon of September 3, 1919. Said witness being first duly sworn testified as follows:

## Direct interrogatories:

Q. State your name, age, and occupation?—A. Name, William T. Barr. Age, 40. Occupation, soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last named date?—A. January, 1917. Fort Gibbon, Alaska.

Q. Was you a resident of Alaska when you so enlisted?—A. Yes. I was a resident of Alaska.

Q. Did you vote at the election November 5, 1918?—A. Yes.

Q. Where did you vote?—A. I voted in the Fort Gibbon precinct of Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska? Contestee objects to the question and instructs witness that he can not be required to disclose name of candidate voted for November 5, 1918, unless he wants to.

A. I voted for Charles A. Sulzer.

## Cross interrogatories by JOHN A. CLARK attorney for Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Over a year.

Q. How long had you resided in Alaska before November 5, 1918?—A. Over three years.

WILLIAM T. BARR.

Subscribed and sworn to before me this 3d day of September, 1919.

[SEAL.]

JOSEPH C. DEHN,  
Notary Public for Alaska.

My commission expires August 3, 1921.

## DEPOSITION OF EDWARD E. BEATTIE.

Pursuant to notice the testimony of EDWARD E. BEATTIE was taken before me, Jos. C. Dehn, a notary public in and for Alaska, at my office in the town of Tanana, Alaska, at 10 o'clock in the forenoon of September 6, 1919.

Said witness, being first duly sworn, testified as follows:

## Direct interrogatories:

Q. State your name, age, and occupation.—A. Name, Edward E. Beattie; age, 23; occupation, bank clerk.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. Fort William H. Seward, July 24, 1917.

Q. Was you a resident of Alaska when you so enlisted?—A. Yes.

Q. Did you vote at the election November 5, 1919?—A. Yes.

Q. Where did you vote?—A. Fort Gibbon precinct, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska? Contestee objects to the question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

A. I decline to answer question.

## Cross interrogatories by JOHN A. CLARK, attorney for Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Fifteen months.

Q. How long had you resided in Alaska before November 5, 1918?—A. Five years.

EDWARD E. BEATTIE.

Subscribed and sworn to before me this 6th day of September, 1919.

[SEAL.]

JOSEPH C. DEHN,  
Notary Public for Alaska.

My commission expires August 3, 1921.

[Telegram.]

TANANA, ALASKA, September 2, 1919.

MORTON E. STEVENS,  
*Fairbanks, Alaska:*

Telegram received and understood. Would it be possible take deposition of William T. Barr before Saturday. He is scheduled go out on steamer *Yukon*. Wire instructions.

J. C. DEHN.

[Telegram.]

FAIRBANKS, ALASKA, September 2, 1919.

J. C. DEHN, *Tanana, Alaska:*

No objection to your taking Barr's deposition before Saturday. Attach this telegram to your certificate as authority. Send Stevens two copies all depositions.

JAMES WICKERSHAM,  
By MORTON E. STEVENS,  
*His Attorney.*  
JOHN A. CLARK,  
*Attorney for George Grigsby.*

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

I, Joseph C. Dehn, a notary public for Alaska, do hereby certify that the foregoing four pages of typewritten matter constitute a full, true, and correct transcript of the proceedings had before me on September 3, 1919, and on Saturday, September 6, 1919, at Tanana, Alaska, in the contested-election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee.

In witness whereof I have hereunto set my hand and affixed my seal this 6th day of September, 1919.

[SEAL.]

JOSEPH C. DEHN,  
*Notary Public for Alaska.*

My commission expires August 3, 1921.

## DEPOSITION OF JAMES M. CAMPBELL.

Pursuant to notice the testimony of JAMES M. CAMPBELL was taken before me, Jos. C. Dehn, a notary public in and for Alaska, at my office in the town of Tanana, Alaska, at 10 o'clock in the forenoon of September 6, 1919.

Said witness, being first duly sworn, testified as follows:

Direct interrogatories:

Q. State your name, age, and occupation.—A. Name, James M. Campbell; age, 29; Occupation, soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. I was.

Q. When and where did you enlist prior to last-named date?—A. I enlisted at St. Michael, Alaska, February 11, 1915.

Q. Was you a resident of Alaska when you so enlisted?—A. I was.

Q. Did you vote at the election November 5, 1918?—A. Yes.

Q. Where did you vote?—A. I voted in Tanana voting precinct, Tanana, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?

Contestee objects to the question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

A. I decline to disclose name of person voted for.

Cross-interrogatories by JOHN A. CLARK, attorney for Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Have resided in Tanana, Alaska, from August, 1916, to present time except for about one year.

Q. How long had you resided in Alaska before November 5, 1918?—A. Six years.

JAMES M. CAMPBELL.

Subscribed and sworn to before me this 6th day of September, 1919.

[SEAL.]

JOSEPH C. DEHN,  
*Notary Public for Alaska.*

My commission expires August 2, 1921.

## DEPOSITION OF LOUIS G. SELK.

Pursuant to notice the testimony of LOUIS G. SELK was taken before me, Jos. C. Dehn, a notary public in and for Alaska, at my office in the town of Tanana, Alaska, at the hour of 10 o'clock in the forenoon of September 6, 1919.

Said witness being first duly sworn testified as follows:

Direct interrogatories:

Q. State your name, age, and occupation.—A. Name, Louis G. Selk; age, 39; occupation, soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. December 16, 1913, at Fort Lawton, Wash.

Q. Was you a resident of Alaska when you so enlisted?—A. No.

Q. Did you vote at the election November 5, 1918?—A. Yes.

Q. Where did you vote?—A. I voted in the Tanana voting precinct, Tanana, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?

Contestee objects to question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

A. I decline to state name of person voted for.

Cross-interrogatories by JOHN A. CLARK, attorney for Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Since September 21, 1915.

Q. How long had you resided in Alaska before November 5, 1918?—A. Came to Alaska June 11, 1912, and have resided in Alaska from that time except for about one year I was in the States.

LOUIS G. SELK.

Subscribed and sworn to before me this 6th day of September, 1919.

[SEAL.]

JOSEPH C. DEHN,  
Notary Public for Alaska.

My commission expires August 3, 1921.

## DEPOSITION OF WALTER HUNT.

TERRITORY OF ALASKA,

Forty-Mile Precinct, ss:

WALTER HUNT, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Sixteen years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—A. Sixteen years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. I thought precinct for voting should not have been changed.

Q. How far is it from Wade to Franklin and return?—A. Thirty-two miles.

Q. Would it be a two days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which has the larger local voting population, Wade or Franklin?—A. Wade, 21; Franklin, 7.

Q. Is it not true that in his redistricting of the Forty-Mile recording precinct, the United States commissioner eliminated Steel and Wade voting precincts, the only ones giving a Republican majority?—A. Yes.

Q. Why do you think he did so?—A. Commissioner said he had orders to do it.

Q. What was the date of the order and notice redistricting the Forty-Mile precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the commissioner's unfairness?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot?—A. James Wickersham.

WALTER HUNT.

Sworn and subscribed to before me this 3d day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,  
Notary Public in and for the District of Alaska.  
Residing at Jack Wade.

My commission expires October 15, 1919.

DEPOSITION OF N. M. PATTERSON.

TERRITORY OF ALASKA,  
*Forty-Mile Precinct, ss:*

N. M. PATTERSON, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska—A. Nineteen years.

Q. How long in the Wade precinct previous to November 5, 1918?—A. Ten years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Too great a distance to go.

Q. How far is it from Franklin to Wade, the round trip?—A. Thirty-two miles.

Q. Would it be a two days' trip in November?—A. Yes.

Q. Are there over-night accommodations for 20 or more people at Franklin?—A. No.

Q. Which has the larger local voting population, Wade or Franklin?—A. Wade, 21; Franklin, 7.

Q. Is it not true that in redistricting the Forty-mile precinct, the United States commissioner eliminated Wade and Steel Creek voting precincts, the two that gave Republican majorities?—A. Yes.

Q. Why do you think he did so?—A. Politics.

Q. What was the date of order and notice redistricting the Forty-Mile precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the unfairness of the redivision?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot?—A. Charles Sulzer.

N. M. PATTERSON.

Sworn and subscribed to before me this 3d day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF JOHN A. LAMBERT.

TERRITORY OF ALASKA,  
*Forty-Mile Precinct, ss:*

JOHN A. LAMBERT, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Twenty years.

Q. How long in the Wade precinct previous to November 5, 1918?—A. Ten years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Polls moved to too great a distance.

Q. How far is it from Wade to Franklin and return?—A. Thirty-two miles.

Q. Would it be a two-days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which has the larger local voting population, Wade or Franklin?—A. Wade, 21; Franklin, 7.

Q. Is it not true that in redistricting the Forty-Mile recording precinct the United States commissioner eliminated Wade and Steel Creek voting precincts, the two that gave Republican majorities?—A. Yes.

Q. Why do you think this was done?—A. Politics.

Q. What was the date of the order and notice redistricting the Forty-Mile precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the unfairness of the redistricting?—A. Yes.



Q. Had you been able to vote, for whom would you have cast your ballot?—  
A. James Wickersham.

JOHN A. LAMBERT.

Sworn and subscribed to before me this 3d day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF T. E. PHILLIPS.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

T. E. PHILLIPS, first being duly sworn deposes as follows:

Q. How long have you resided in Alaska?—A. Nearly 14 years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—

A. Twelve years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Trip to Franklin too far, and too expensive.

Q. How far is it to Franklin and return?—A. Thirty or more miles.

Q. Would it be a two-day trip in November?—A. Assuredly; yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—

A. No.

Q. Which has the larger population, Franklin or Jack Wade?—A. Wade, by four times as much.

Q. In redistricting the Forty Mile recording precinct, the commissioner eliminated only those voting precincts, giving a Republican majority, did he not?—A. Yes; both Wade Creek and Steel Creek.

Q. Why do you think he did that?—A. Politics, no doubt.

Q. What was the date of the order and notice redistricting the Forty Mile recording precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot?—A. Mr. Wickersham.

Q. Would you say that the United States commissioner played politics in his redistricting of the Forty Mile recording precinct?—A. I think so.

T. E. PHILLIPS.

Sworn and subscribed to before me this 3d day of September, A. D., 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF HANNAH J. JOHNSON.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

HANNAH J. JOHNSON, first being duly sworn deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Twenty-two years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—

A. Five years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. I thought precinct for voting should not have been changed.

Q. How far is it from Wade to Franklin and return?—A. Thirty-two miles.

Q. Would it be a two-days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—

A. No.

Q. Which has the larger local voting population, Wade or Franklin?—A. Wade, 21; Franklin, 7.

Q. Is it not time that in redistricting the Forty Mile recording precinct, the United States commissioner eliminated Wade and Steel voting precincts, the two that gave Republican majorities?—A. Yes.

Q. Why do you think he did so?—A. Commissioner said he had orders to do it.

Q. What was the date of the order and notice redistricting the Forty Mile precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the unfairness of this redivision?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot?—A. James Wickersham.

HANNAH JOHNSON.

Sworn and subscribed to before me this 3d day of September A. D., 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF C. D. ARNOLD.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

C. D. ARNOLD, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Six years.

Q. How long in the Steel Creek precinct previous to November 5, 1918?—A. Five years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Too far to go.

Q. How far is it from Steel Creek to the Moose polling place and return?—A. Thirty miles.

Q. Would it be a two days' trip in November?—A. Yes.

Q. What would the expense be?—A. \$8.

Q. How many voters are there resident at Moose Creek?—A. Two.

Q. Where does Moose Creek and all of the Moose voting precinct get mail?—A. Steel Creek and Jack Wade post offices.

Q. Is it not true that in redistricting the Forty Mile recording precinct the United States commissioner eliminated Wade and Steel Creek voting precincts, the two that gave Republican majorities?—A. Yes.

Q. Why do you think this was done?—A. Politics.

Q. What was the date of the order and notice redistricting the Forty Mile precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the unfairness of the redistricting?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot?—A. James Wickersham.

C. D. ARNOLD.

Sworn and subscribed to before me this 3d day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF HENRY SIEMER.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

HENRY SIEMER, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Thirty-three years.

Q. How long in the Steel precinct?—A. Six years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote November 5, 1918?—A. No.

Q. Why not?—A. Polls too far distance.

Q. How far is it from Steel Creek to Moose and return?—A. Twenty-eight miles.

Q. Is it a two days' trip in November?—A. Yes; and \$4 expense.

Q. How many resident voters are there at Moose Creek?—A. Two.

Q. Where do the voters of the Moose voting precinct, as now organized, get their mail?—A. Steel and Jack Wade post offices.

Q. Is it not true that the United States commissioner, in redistricting the Forty Mile precinct, eliminated the Steel and Wade voting precincts, the two Republican precincts?—A. Yes.

Q. Why do you think he did this?—A. Probably politics.

Q. Why do you think the Moose precinct was first organized, and who by?—A. Don't really know.

Q. You have seen the order and notice redistricting the Forty Mile precinct; what is the date?—A. October 1, 1918.

Q. Had you been able to vote November 5, 1918, for whom would you have cast your ballot?—A. James Wickersham.

HENRY SIEMER.

Sworn and subscribed to before me this 4th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

#### DEPOSITION OF J. A. KEMP.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

J. A. KEMP, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Since 1892.

Q. How long in the Steel Creek voting precinct previous to November 5, 1918?—A. Ten years.

Q. Are you of voting age?—A. Yes.

Q. Did you vote at the election of November 5, 1918?—A. No.

Q. Why not?—A. Because our voting precinct had been abolished and the distance to the new polling place was too great.

Q. How far is it from Steel Creek to Moose Creek and return?—A. Twenty-eight miles.

Q. Would you consider it a two days' trip?—A. Yes.

Q. How many resident voters are there at Moose Creek?—A. Two.

Q. Is it not true that in redistricting the Forty Mile recording precinct the United States commissioner eliminated Steel and Jack Wade voting precincts, the two that in 1916 gave Wickersham a vote of 18, Sulzer a vote of 4?—A. Yes.

Q. Why do you think this was done?—A. Spite work and to toady to the party machine.

Q. From your mercantile acquaintance of the residents of both Jack Wade and Steel precincts, would you say the vote of 1916 had materially changed in 1918?—A. Most certainly not.

Q. To what would you attribute the loss of the 18 Wickersham votes in the abolished precincts?—A. Removal of the old voting precincts and added distance to those provided by the commissioner.

Q. Who first organized the Moose precinct?—A. J. J. Donovan, United States commissioner.

Q. As a matter of fact, where do the voters of the Moose Creek precinct go for their mail?—A. Steel Creek post office, and some to Jack Wade.

Q. Is Moose a post office?—A. No.

Q. What is the date of the order and notice redistricting the Forty Mile precinct?—A. October 1, 1918.

Q. For whom would you have cast your ballot had you been able to vote November 5, 1918?—A. James Wickersham.

J. A. KEMP.

Sworn and subscribed to before me this 6th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

## DEPOSITION OF A. B. EWING.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

A. B. EWING, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Sixteen years.

Q. How long in the Steel Creek voting precinct?—A. Eight years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote November 5, 1918?—A. No.

Q. Why not?—A. Polling place too far distant and inconvenient.

Q. How far is it from Steel Creek to Moose and return?—A. Thirty miles.

Q. Is it a two days' trip in November?—A. Yes.

Q. How many resident voters are there at Moose Creek?—A. Two.

Q. Where do the voters of Moose Creek precinct get their mail?—A. Steel Creek.

Q. Is it not true that, in redistricting the Forty Mile recording precinct, the United States commissioner eliminated Steel Creek and Wade voting precincts, the two that gave a Republican vote?—A. Yes.

Q. Why do you think he did this?—A. Politics and vindictiveness.

Q. Who first organized the Moose precinct and for what reason?—A. J. J. Donovan, the present commissioner, and for no good reason.

Q. Having seen the order and notice redistricting the Forty Mile precinct, what is its date?—A. October 1, 1918.

Q. Had you been able to vote November 5, 1918, for whom would you have cast your ballot?—A. James Wickersham.

E. B. EWING.

Sworn and subscribed to before me this 5th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska**Residing at Jack Wade.*

My commission expires October 15, 1919.

## DEPOSITION OF JOSEPH N. BROST.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

JOSEPH N. BROST, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Twenty years.

Q. How long in the Steel Creek voting precinct?—A. Four years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote November 5, 1918?—A. Yes.

Q. Why not?—A. ———

Q. How far is it from Steel Creek to Moose and return?—A. Thirty miles.

Q. Is it a two-days' trip in November?—A. One.

Q. How many resident voters are there at Moose Creek?—A. Do not know.

Q. Where do the voters of Moose voting precinct get their mail?—A. Steel Creek.

Q. Is it not true that the United States commissioner in redistricting the Forty Mile precinct eliminated the Steel and Wade voting precincts, the two that gave a Republican majority?—A. Yes.

Q. Why do you think he did this?—A. Do not know.

Q. Who first organized the Moose voting precinct, and for what reason?—A. Do not know.

Q. Having seen the order and notice redistricting the Forty Mile precinct, what is its date?—A. Yes; October 1, 1918.

Q. Had you been able to cast your ballot November 5, 1918, for whom would you have voted?—A. For Democrat.

JOS. N. BROST.

Sworn and subscribed to before me this 5th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,**Residing at Jack Wade.*

My commission expires October 15, 1919.

## DEPOSITION OF MRS. J. A. KEMP.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

Mrs. J. A. KEMP, first being duly sworn deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Twenty years.

Q. How long in the Steel Creek voting precinct previous to November 5, 1918?—A. Ten years.

Q. Are you of voting age?—A. Yes.

Q. Did you vote at the election November 5, 1918?—A. No.

Q. Why not?—A. Too far to get to polls.

Q. How far is it from Steel Creek to Moose and return?—A. Thirty miles.

Q. Would you consider it a two days' trip in November?—A. Yes.

Q. How many resident voters are there at Moose Creek?—A. Two.

Q. Is it not true that the United States commissioner in redistricting the Forty Mile recording precinct eliminated only those voting precincts giving a Republican majority, i. e., Jack Wade and Steel Creek.—A. Yes.

Q. Why do you think he did this?—A. Spite and politics.

Q. Have you an idea as to why Moose Creek precinct was first organized by the present United States commissioner, J. J. Donovan?—A. General opinion is, personal spite.

Q. What was the date of the United States commissioner's order and notice redistricting the Forty Mile Precinct?—A. October 1, 1918.

Q. Had you been able to vote November 5, 1918, for whom would you have cast your ballot?—A. James Wickersham.

MRS. J. A. KEMP.

Sworn and subscribed to before me this 6th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

## DEPOSITION OF E. L. ECKSTEIN.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

E. L. ECKSTEIN, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Nebraska?—A. Twenty years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—A. Four years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Removal of polls from Wade and travel distance imposed by United State commissioner.

Q. How far is it from Jack Wade to Franklin and return?—A. Thirty miles.

Q. Would you consider it a two-day trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which had the larger local voting population in 1918—Wade or Franklin—about how many each?—A. Jack Wade, 20; Franklin, 7.

Q. Is it not true that, in redistricting the Forty Mile recording precinct J. J. Donovan, the United States commissioner retains only those precincts that had before given Democratic majorities, i. e., Chicken, Franklin, and Moose, eliminating both Jack Wade and Steel Creek, the two giving a Republican vote?—A. Yes.

Q. Why do you think this was done?—A. To discourage the Wickerham vote.

Q. What was the date of the order and notice redistricting the Forty Mile recording precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the commissioner's unfair redistricting?—A. Yes.



Q. Had you been able to cast your ballot at the election held November 5, 1918, for whom would you have voted?—A. James Wickersham.

E. L. ECKSTEIN.

Sworn and subscribed to before me this 8th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE.

*Notary Public in and for the District of Alaska.*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF GEO. E. PILZ.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

GEO. E. PILZ, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Forty-two years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—A. Ten years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Distance to Franklin and expense too great.

Q. How far is it from Jack Wade to Franklin and return?—A. Thirty-two miles.

Q. Would you consider it a two days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which had the larger local voting population in 1918, Wade or Franklin, and how many?—A. Jack Wade, 21; Franklin, 7.

Q. Is it not true that in redistricting the Forty Mile recording precinct, J. J. Donovan, the United States commissioner, retained only those voting precincts that had before given Democratic majorities, i. e., Chicken, Franklin, and Moose, and eliminated both Jack Wade and Steel Creek precincts, the ones usually giving a Republican vote?—A. Yes.

Q. Why do you think this was done?—A. Politics.

Q. What was the date of the order and notice redistricting the Forty Mile recording precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the commissioner's unfair redistricting?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot at the election held November 5, 1918?—A. James Wickersham.

GEO. E. PILZ.

Sworn and subscribed to before me this 10th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE.

*Notary Public in and for the District of Alaska.*

*Residing at Jack Wade.*

My commission expires October 15, 1919.

DEPOSITION OF A. LASSEN.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

A. LASSEN, first being duly sworn, deposes and answers, as follows:

Q. How long have you resided in Alaska?—A. Seventeen years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—A. Fifteen years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Wade precinct was taken away.

Q. How far is it from Wade to Franklin and return?—A. Thirty-six miles.

Q. Would it be a two days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which has the larger local voting population, Franklin or Wade?—A. Wade.

Q. In redistricting the Forty Mile recording precinct the United States commissioner eliminated those only of the voting precincts which gave a Republican majority, did he not?—A. Yes.

Q. Which were they?—A. Wade and Steel.

Q. Why do you think he did so?—A. I don't know.

Q. What was the date of the order and notice of redistricting the Forty Mile precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the commissioner's unfairness?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot?—A. Socialist.

A. LASSEN.

Sworn and subscribed to before me this 12th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,  
Notary Public in and for the District of Alaska,  
Residing at Jack Wade.

My commission expires October 15, 1919.

DEPOSITION OF JOHN OSTERGARD.

TERRITORY OF ALASKA,  
Forty Mile Precinct, ss:

JOHN OSTERGARD, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Nineteen years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—A. Two years.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Wade voting precinct was taken away.

Q. How far is it from Jack Wade to Franklin and return?—A. Thirty-six miles.

Q. Would you consider it a two days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which had the larger local voting population in 1918, Wade or Franklin, and how many?—A. Wade.

Q. Is it not true that in redistricting the Forty Mile recording precinct J. J. Donovan, the United States commissioner, retained only those that had before given a Democratic majority, i. e., Chicken, Franklin, and Moose voting precincts, and eliminated both Steel and Jack Wade precincts, usually giving a Republican vote?—A. Yes.

Q. Why do you think this was done?—A. I don't know.

Q. What was the date of the order and notice of redistricting the Forty Mile recording precinct?—A. October 1, 1918.

Q. Did you sign a protest to Judge Bunnell against the commissioner's unfair redistricting?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot at the election held November 5, 1918?—A. Sulzer.

JOHN OSTERGARD.

Sworn and subscribed before me this 12th day of September, A. D. 1919.

[SEAL.]

CHAS. E. M. COLE,  
Notary Public in and for the District of Alaska,  
Residing at Jack Wade.

UNITED STATES OF AMERICA,  
Territory of Alaska, Forty Mile Precinct, ss:

I, Charles E. M. Cole, first being duly sworn, depose and say that prior to the election for Delegate to Congress, held in Alaska on November 5, 1918, was a resident in the Jack Wade voting precinct of the Forty Mile recording district, and so resided there on said 5th day of November, 1918. That shortly

before the election I was informed that the commissioner in the Forty Mile precinct had redistricted the five precincts therein, to wit: Chicken, Franklin, Jack Wade, Steel Creek, and Moose Creek by leaving out Jack Wade and Steel Creek precincts, taking Wade voters a round trip of 30 miles to Franklin, and Steel Creek voters a like trip of nearly 40 miles to Moose Creek, with the consequent roadhouse expense, and in spite of the fact that both Wade and Steel Creeks are post offices for their sections and true centers of population. That in the election of 1916 the vote at Wade was as follows: Sulzer, 3; Wickersham, 9; Lewis, 9, making a total of 21 votes. In Steel Creek precinct the vote was: Sulzer, 1; Wickersham, 9; Lewis, 2, making a total of 12 votes, and affiant believes that these precincts were abolished for the purpose of discouraging the Wickersham vote by imposing travel and expense on the voters in these assured Wickersham precincts.

That affiant was unable, by reason of the distance and inability to travel at that season, to reach the polling place provided and cast his vote at the said election on November 5, 1918, and by reason of the fact that the precinct in which he resided had been abolished. That affiant would have voted for Wickersham if he had been able to cast his ballot at said election. That affiant was at Franklin on the 26th day of September, 1918, and the commissioner stated to him and others that "he had received instructions to reduce election expenses, from Fairbanks, and would have to redistrict the district," but at that date was undecided, and there was nothing definite said at the time affiant left Franklin on September 27, 1918, though he offered to guarantee an election at Wade without expense to the Territory. Affiant believes that the redistricting was done at or about the dates mentioned in September and not in accordance with the statute which requires such redivision to be made "not less than 60 days previous to election."

Further, affiant will state that fully 30 voters received their mail at the Jack Wade post office at the date of the aforesaid election, and the redistricting was so done as to throw some of them to Moose Creek, a nonpost-office point.

Further affiant will state that said J. J. Donovan stated, on the 26th day of September, 1918, during the conversation above mentioned, that if he brought Wade voters to Franklin he knew none of them would vote.

CHAS. E. M. COLE.

Sworn and subscribed to before me this 13th day of September, A. D. 1919.

[SEAL.]

N. A. LYSSELL,

*Notary Public in and for the District of Alaska,*

*Residing at Eagle, Alaska.*

My commission expires April 8, 1923.

**TERRITORY OF ALASKA,**

*Forty Mile Precinct, ss:*

Chas. E. M. Cole, a notary public in and for the Territory of Alaska, duly appointed and commissioned as such, first being duly sworn, deposes and says: That in accordance with the authorization of James Wickersham, contestant in the matter of Delegate from Alaska arising from the election of November 5, 1918, and a certain notice served on the contestee and his agents, affiant proceeded on September 3, 1918, at 10 o'clock a. m. to take those depositions mentioned in aforesaid notice.

That conditions of travel, distance, and seasonal residence are such in Alaska that in several cases affiant was unable to reach the parties named in said notice, and in three instances delegated other notaries to take depositions of temporary absentees from their places of residence under his authority to take aforesaid depositions.

Affiant deposes further that the contestee sent no representative to cross-examine or otherwise interrogate deponents, and that the before-in-mentioned depositions are forwarded to Clerk of House of Representatives in three envelopes by registered mail, i. e., two others besides the one in which this affidavit is inclosed.

Affiant further deposes that he wrote to J. J. Donovan, the United States commissioner at Franklin, on August 27, 1919, requesting a certified copy of his order and notice for the election held in Alaska November 5, 1918, receiving no reply. A second request, inclosing \$5 for fees, if required, was sent on September 11, 1919. His answer in registered letter No. 42 is attached hereto.

together with stylo copies of affiant's letters to J. J. Donovan on the above-named dates, and depositions of witnesses.

Affiant further states said United States commissioner, between the dates hereinabove mentioned, visited the wireless station at Eagle, Alaska.

CHAS. E. M. COLE.

Sworn and subscribed to before me this 13th day of September, 1919.

[SEAL.]

N. A. LYSSELL,

*Notary Public in and for the District of Alaska,  
Residing at Eagle, Alaska.*

My commission expires April 8, 1923.

FRANKLIN, ALASKA, September 12, 1919.

Mr. CHARLES E. M. COLE,  
*Jack Wade, Alaska.*

DEAR SIR: I am in receipt of your letter of September 11, inclosing \$5 for a certified copy of order and notice of the general election, November 5, 1918.

As there is no fees provided for such services in connection with general election, I am returning to you the \$5; you will please find same inclosed.

Respectfully, yours,

JOHN J. DONOVAN,  
*United States Commissioner.*

JACK WADE, ALASKA, September 11, 1919.

J. J. DONOVAN, *United States Commissioner,  
Franklin, Alaska.*

SIR: I am inclosing \$5 for a certified copy of your order and notice in the matter of election November 5, 1918. Please send by return mail and oblige,

Yours, truly,

CHAS. E. M. COLE.

MEMORANDA.—This letter is the one answered by Donovan September 12, the original of which accompanies other papers.

CHAS. E. M. COLE.

JACK WADE, ALASKA, August 27, 1919

J. J. DONOVAN,  
*United States Commissioner, Franklin, Alaska.*

DEAR SIR. I am requested to obtain a copy of your order (redistricting the Forty-Mile Precinct October last), under your seal. Will you oblige me with this?

Respectfully,

CHAS. E. M. COLE.

MEMORANDUM.—This letter was ignored.

CHAS. E. M. COLE.

UNITED STATES OF AMERICA, TERRITORY OF ALASKA,  
*Forty-Mile Precinct, ss:*

E. L. Eckstein and T. E. Phillips, first being duly sworn, depose and say: That they were in the Jack Wade post office September 13, 1919, on the arrival of the mail from Franklin, Alaska; saw the inclosed registered letter and envelope (addressed to Chas. E. M. Cole), opened, read the letter, examined the envelope, and found no certified copy of the order and notice mentioned therein, i. e., in the matter of the Alaskan Delegate election held November 5, 1918.

E. L. ECKSTEIN.  
T. E. PHILLIPS.

Sworn and subscribed to before me this 13th day of September, 1919.

[SEAL.]

CHAS. E. M. COLE,

*Notary Public in and for the District of Alaska,  
residing at Jack Wade.*

My commission expires October 15, 1919.

## ORDER AND NOTICE OF ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 1918.

In the office of the United States Commissioner at Franklin, Alaska, Fourth Judicial Division, in the matter of the election of a Delegate to the House of Representatives from the Territory of Alaska, one member of the Senate of the Territory of Alaska, four members of the House of Representatives of the Territory of Alaska, one road commissioner for Road District No. 4.

In pursuance of an act of Congress approved May 7, 1906, entitled "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska," I, John J. Donovan, United States commissioner, in and for the Forty Mile precinct, fourth division, Territory of Alaska, do hereby order that said recording district be, and the same is hereby divided into the following voting precincts, the boundaries thereof defined, a polling place specified, and a notice of said election published; fixing the date of said election, and designating the said polling places as follows, and the hours between which said polling places will be open:

1. *Moose Creek precinct*.—It is ordered that the boundaries of said precinct shall be as follows: Commencing on the Forty Mile River, at the international boundary line, thence running upstream to the mouth of O'Brien Creek, including all tributaries flowing into the said Forty Mile River and Walker's Fork and all its tributaries, from the mouth of Cherry Creek upstream to the international boundary line.

2. *Franklin voting precinct*.—It is ordered that the boundaries of said precinct shall be as follows: Commencing on the Forty Mile River at the mouth of O'Brien Creek, thence running upstream and including all tributaries of the North Fork, within the boundaries of the Forty Mile precinct, and all tributaries of the South Fork upstream to the mouth of Walker's Fork, thence in an easterly direction to the mouth of Cherry Creek on said Walker's Fork and all its tributaries flowing into Walker's Fork.

3. *Chicken voting precinct*.—It is ordered that the boundaries of said precinct shall be as follows: Commencing at the mouth of Walker's Fork on the South Fork of the Forty Mile River, thence in a southerly direction, including Dennison Fork and all its tributaries, Mosquito Fork and all its tributaries, and the Tanana Basin within the boundaries of the Forty Mile precinct.

4. That the several polling places herein designated will be open for the reception of votes from 8 o'clock unto 7 o'clock p. m. on the day of said election; to wit the 5th day of November, 1918.

Dated this the 1st day of October, 1918.

JOHN J. DONOVAN,

*United States Commissioner in and for the  
Forty Mile Precinct, Territory of Alaska.*

UNITED STATES OF AMERICA, TERRITORY OF ALASKA,  
*Forty Mile Precinct, ss:*

Charles E. M. Cole, first being duly sworn, deposes and says that the foregoing order and notice is a true and accurate copy of an original now posted on his residence, which is the post office at Jack Wade, Alaska.

CHAS. E. M. COLE

Sworn and subscribed to before me, this 13th day of Sept., 1919.

[SEAL.]

N. A. LYSELL,

*Notary Public in and for the District of Alaska,  
Residing at Eagle, Alaska.*

My commission expires April 8, 1923.

## DEPOSITION OF EMIL KRUGER.

UNITED STATES OF AMERICA, TERRITORY OF ALASKA,  
*Forty Mile Precinct, ss:*

EMIL KRUGER, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Since 1903.

Q. How long in the Steel precinct previous to November 5, 1918?—A. One year.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote November 5, 1918?—A. Yes.



Q. How far is it from Steel Creek to Moose and return?—A. Twenty-eight miles.

Q. How far is it from your residence to Steel Creek?—A. Three miles.

Q. How many resident voters are there at Moose Creek?—A. Two.

Q. Where do you get your mail?—A. Steel Creek.

Q. Is it not true that in redistricting the Forty Mile recording precinct the United States commissioner eliminated both Seel and Jack Wade voting precincts, the two precincts that gave Republican majorities?—A. Don't know.

Q. Why do you think he did this?—A. Don't know.

Q. Do you know who first organized the Moose voting precinct, and can you say why it was done?—A. Donovan organized Moose. Why it was done, don't know.

Q. Having seen the order and notice redistricting the Forty Mile precinct, will you state its date?—A. October 1, 1918.

Q. Will you state for whom you cast your ballot as Delegate from Alaska November 5, 1918?—A. James Wickersham.

EMIL KRUGER.

Sworn and subscribed to before me this 9th day of September, 1919.

[SEAL.]

N. A. LYSELL,  
Notary Public in and for Territory of Alaska,  
Residing at Eagle, Alaska.

My commission expires April 8, 1923.

#### DEPOSITION OF JOHN HAUN.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

JOHN HAUN, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Five years.

Q. How long in the Steel Creek voting precinct preceding November 5, 1918?—

A. Four years two months.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. No voting place at Steel Creek; too far to Moose.

Q. How far is it from Steel Creek to Moose and return?—A. Twenty-eight miles.

Q. Would you consider it a two days' trip in November?—A. Yes.

Q. Which has the larger local voting population, Steel Creek or Moose Creek?—A. I don't know.

Q. Is Moose Creek a post office?—A. No.

Q. Where do the voters and other residents of the now Moose Creek voting precinct get their mail?—A. Steel Creek.

Q. Is it not true that in redistricting the Forty Mile recording precinct J. J. Donovan, the United States commissioner, eliminated the Republican voting precincts, Wade and Steel Creek, and retained the Democratic ones, Chicken, Franklin, and Moose?—A. Yes.

Q. Why do you think this was done?—A. Politics.

Q. What was the date of the order and notice redistricting the Forty Mile recording precinct?—A. First day of October, 1918.

Q. Had you been able to vote, for whom would you have cast your ballot at the election held November 5, 1918?—A. James Wickersham.

JOHN HAUN.

Sworn and subscribed to before me this 13th day of September, A. D. 1919.

[SEAL.]

N. A. LYSELL,  
Notary Public in and for Territory of Alaska,  
Residing at Eagle, Alaska.

My commission expires April 8, 1923.

#### DEPOSITION OF MRS. AGNES HICK.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

Mrs. AGNES HICK, first being duly sworn, deposes and makes answer as follows:

Q. How long have you resided in Alaska?—A. Two years.

Q. How long in the Wade voting precinct previous to November 5, 1918?—A. One year.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Too far to go to Franklin to vote.

Q. How far is it from Jack Wade to Franklin and return?—A. About 34 miles from our cabin.

Q. Would you consider it a two days' trip in November?—A. Yes.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. Not at the roadhouse.

Q. Which had the larger local voting population in November, 1918, Wade or Franklin and how many?—A. As far as I could learn Wade, but can not be accurate in this reply.

Q. Is it not true, that in redistricting the Forty Mile recording precinct, J. J. Donovan, the United States Commissioner, retained only those voting precincts that had before given Democratic majorities, i. e., Chicken, Franklin, and Moose, and eliminated both Jack Wade and Steel Creek, the two usually giving a Republican vote?—A. I believe this to be the case.

Q. Why do you think this was done?—A. For political purposes.

Q. What was the date of the order and notice redistricting the Forty Mile recording precinct?—A. Immediately before election.

Q. Had you been able to vote, for whom would you have cast your ballot at the election held November 5, 1918?—A. J. Wickersham.

MRS. AGNES A. HICK.

Witnesses:

C. A. THOMPSON,

J. D. HOWARD.

Sworn to and subscribed before me this 1st day of November, 1919.

[SEAL.]

CLYDE A. THOMPSON,

*Notary Public in and for the Territory of Alaska.*

My commission expires June 27, 1923.

#### DEPOSITION OF GEORGE HICK.

TERRITORY OF ALASKA,

*Forty Mile Precinct, ss:*

GEORGE HICK, first being sworn, deposes and makes answer as follows.

Q. How long have you resided in Alaska?—A. Twenty years.

Q. How long in the Jack Wade voting precinct previous to November 5, 1918?—A. One year and five months.

Q. Are you a citizen of the United States?—A. Yes.

Q. Are you of voting age?—A. Yes.

Q. Did you vote on November 5, 1918?—A. No.

Q. Why not?—A. Too far to voting precinct.

Q. How far is it from Jack Wade to Franklin and return?—A. Thirty to forty miles.

Q. Would you consider it a two days' trip in November?—A. Certainly.

Q. Are there overnight accommodations for 20 or more people at Franklin?—A. No.

Q. Which had the larger local voting population in 1918, Wade or Franklin, and how many?—A. Jack Wade; could not say how many.

Q. Is it not true, that in redistricting the Forty Mile recording precinct, J. J. Donovan, the United States Commissioner, retained only those voting precincts that had before given Democratic majorities, i. e., Chicken, Franklin, and Moose, and eliminated both Jack Wade and Steel Creek, the two usually giving a Republican vote?—A. Apparently so.

Q. Why do you think this was done?—A. For political purposes.

Q. What was the date of the order and notice redistricting the Forty Mile recording precinct?—A. Just prior to election—October 1.

Q. Did you sign a protest to Judge Bunnell against the commissioner's unfair redistricting?—A. Yes.

Q. Had you been able to vote, for whom would you have cast your ballot on November 5, 1918?—A. James Wickersham.

GEORGE W. HICK.

Witnesses:

C. A. THOMPSON,  
J. J. HOWARD.

Sworn to and subscribed before me this 1st day of November, 1919.  
[SEAL.]

CLYDE A. THOMPSON,

*Notary Public in and for the Territory of Alaska.*

My commission expires June 27, 1923.

DEPOSITION OF CLARENCE MOSSMAN.

The taking of testimony in the above entitled case resumed this 10th day of September, 1919, at 8 p. m., pursuant to a stipulation hereto attached.

Present: Arthur G. Thompson, notary public, designated herein at Anchorage; Isabel Nelson, stenographer; Thomas Price, representing George B. Grigsby, substituted for contestee, Charles A. Sulzer; Clarence W. Mossman, and Mrs. Clarence W. Mossman, witnesses stipulated to attend.

Mr. THOMPSON. Mr. Mossman, will you be sworn? Do you solemnly swear to true answer give to all interrogatories propounded to you in this case in which James Wickersham is contestant and Charles A. Sulzer (and George B. Grigsby contestee of the election to the delegateship to Congress from the Territory of Alaska?

Mr. MOSSMAN. I do.

By Mr. THOMPSON:

Q. Mr. Mossman, how long have you resided in Alaska?—A. Since 1907.

Q. How long have you resided in Anchorage?—A. Since January 28, 1917.

Q. What is your official capacity?—A. Deputy United States marshal.

Q. Did you vote here at the primary election last April?—A. I did.

Q. Did you vote at that election for one of the candidates for Delegate to Congress?—A. I did.

Q. Did you vote at the election last November, Mr. Mossman, for one of the candidates for Delegate to Congress?—A. I did.

Q. Where did you vote in November?—A. At Valdez.

Q. Where is your residence, Mr. Mossman?—A. In Anchorage, Alaska.

Q. That is all.

Cross-question by Mr. PRICE:

Q. You say that Anchorage is your official headquarters?—A. Yes, sir.

Q. Where do you reside when not serving in your official capacity?—A. You ask where I resided before I came to Anchorage?

Q. Yes.—A. At Valdez.

Redirect question by Mr. THOMPSON:

Q. For whom did you vote at Valdez?

Mr. PRICE. Objection. Witness is protected in his franchise; does not have to answer that question unless he so desires.

Overruled.

Q. For whom did you vote, Mr. Mossman?—A. I decline to answer.

C. W. MOSSMAN.

Subscribed and sworn to before me this 11th day of September, 1919.

ARTHUR G. THOMPSON,  
*Notary Public.*

My commission expires March 6, 1922.

NOTARY'S CERTIFICATE.

This is to certify that C. W. Mossman, the witness whose testimony appears in the foregoing deposition, appeared before me at the time and place in this deposition stated, and after being first duly sworn to tell the truth in the above-entitled case, was then and there interrogated by me and by Thomas Price,

representing the substituted contestee, George Grigsby, touching the matters at issue in said case, and that the interrogatories propounded to said witness and the answers given by said witness to said interrogatories are set forth in said deposition, together with the objections of the representatives of the parties hereto, the rulings of the notary thereon, and the exceptions taken thereto; that I caused said deposition to be taken and transcribed by Isabel Nelson, stenographer, and when completed the same was read by the witness and by him or her corrected, and that said witness then signed the same and upon oath swore that said deposition is true; that said deposition was taken pursuant to adjournment of the hearings for the purpose of taking depositions on behalf of the contestant herein, and to the attached stipulation.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 11th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for the Territory of Alaska,*  
*Residing at Anchorage.*

My commission expires May 6, 1922.

#### STIPULATION.

It is hereby stipulated and agreed by and between James Wickersham, contestant, by his agent and representative, Dr. F. M. Boyle, and Charles A. Sulzer (for whom George B. Grigsby has been substituted for purpose of service and notice upon the demise of said Sulzer), contestee, by his agent and representative, and on behalf of said Grigsby, Thomas C. Price, in the above-entitled cause and the hearing therein, that the testimony of Harry Kingsberry, a witness cited to appear herein, may be taken on the 2d day of September, 1919, at the hour of 8 o'clock p. m.; and the testimony of C. W. Mossman and Mrs. Mossman, witnesses cited to appear herein, but at present absent from the town of Anchorage, may be taken upon their return at a time to be agreed upon by the representatives of the contestant and the contestee herein; and that no objection to said testimony or the introduction thereof shall be taken upon the trial of said cause on account of the extension or limitation of time herein stipulated.

Dated at Anchorage, Alaska, this 2d day of September, 1919.

F. M. BOYLE,  
*Representative of Contestant.*  
THOS. C. PRICE,  
*Representative of Contestee.*

#### SUBPOENA.

*To Charles Irving, Harry Kingsberry, Red McDonald, Septimus Irvine, Charles McGarity, James Wheelock, and Mrs. James Wheelock:*

GREETING: By reason of the authority vested in me by the laws of the United States and the Territory of Alaska, and the notice to take testimony in the above-entitled case served by the contestant upon the contestee therein;

You are hereby required to be and appear before me at my office, on the corner of Fourth and F Streets, in the town of Anchorage, Alaska, at the hour of 10 o'clock a. m. on Wednesday, the 3d day of September, 1919, then and there to testify in the above-entitled cause on oath, and true answers given to the questions that may be propounded to you; and if said testimony is not concluded on said day it will be continued from day to day until concluded, and therein fail not.

Given under my hand and the seal of my office this 30th day of August, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for the Territory of Alaska,*  
*Residing at Anchorage.*

My commission expires May 6, 1922.

I hereby certify that I received the hereunto attached summons on the 1st day of September, 1919, at Matanuska, Alaska, and thereafter, on the same

date, I served the same at Chickaloon, Alaska, by delivering to and leaving with Charles Irving a copy thereof.

**Marshal's fees:**

1 service-----	\$1. 50
38 miles, at 20 cents per mile, going to serve-----	7. 60
38 miles, at 20 cents per mile, returning-----	7. 60
<b>Total-----</b>	<b>16. 70</b>

F. R. BRENNEMAN,  
United States Marshal.  
By A. F. HOFFMAN,  
Deputy.

SEPTEMBER 11, 1919.

Received \$16.70 from A. G. Thompson for above service.

F. R. BRENNEMAN,  
United States Marshal.  
By C. W. MOSSMAN,  
Deputy.

**DEPOSITION OF JAMES WICKERSHAM.**

Testimony taken on the 6th day of September, 1919, before Arthur G. Thompson, a notary public, in and for the Territory of Alaska, at the office of said notary in the town of Anchorage, Alaska, upon notice to George Grigsby, substituted contestee, the following persons being present:

Present: Arthur G. Thompson, notary public; James Wickersham, contestant; Mrs. Isabel Nelson, stenographer for notary; Thomas Price, representing George Grigsby.

Continuation of the taking of testimony begun on September 3, 1919.

Hearing begun at 7.30 p. m. and concluded at 8.30 p. m. September 6, 1919.

JAMES WICKERSHAM, the contestant herein, gave and offered for record the following testimony, having first been duly sworn:

On August 27 I received a telegram from Henry T. Ray, the agent agreed upon by Mr. Grigsby and myself as my agent at Fairbanks, Alaska, informing me of his efforts to secure the assembly of certain soldiers, members of the Signal Corps; and I ask to have this telegram marked "Exhibit 1" and made a part of my testimony.

**EXHIBIT 1.**

JAMES WICKERSHAM,

FAIRBANKS, ALASKA, August 27, 1919.

Valdez:

Requested Col. Lewis, Fort Gibbon, to assemble men and designate date, suggesting September 2. He answered, "Not familiar with resolution," and asked what authority for assembling at Fairbanks, stating that taking of men away would cripple system. We are wiring him, quoting sections 9 and 10 of resolution; also list of witnesses; also informed him we had to-day furnished resolution Congressional Record containing list witnesses to officer in charge Fairbanks. We are informed Fairbanks and stations south are controlled from Valdez office. Your letter of August 2, Grigsby answer, and your reply received 25th, but no printed notice of contest against Grigsby separately.

HENRY T. RAY.

I offer another telegram sent by Mr. Ray, dated August 28, and upon the same matter, and ask that it be marked "Exhibit 2" and made a part of my testimony:

**EXHIBIT 2.**

FAIRBANKS, ALASKA, August 28, 1919.

JAMES WICKERSHAM, Valdez:

Gibbon station advises five men on list now at Nulato, one at Nome, four at Gibbon. First six can not reach Fairbanks by September 6; further, says no orders from the War Department. Therefore can not comply with request. Must have higher authority. Wire me instructions.

HENRY T. RAY.



I also offer a copy of a telegram which I sent personally to Col. Lenoir, commander of the Signal Corps in Alaska, at Seattle, Wash., on the same matter. I ask to have it marked "Exhibit 3" and made a part of my testimony.

EXHIBIT 3.

VALDEZ, ALASKA, August 28, 1919.

LENOIR,

*C. O. Signal Corps, Alaska, Seattle, Wash.:*

Am informed officer commanding Signal Corps men at Fort Gibbon refuses to assemble men voting illegally, as required by House resolution 105, July 28 last. Time expires September 6. Will you order action desired? Please answer.

JAMES WICKERSHAM.

I offer a telegram of August 29, from Col. Lenoir, in answer to my last one offered, and ask to have it marked "Exhibit 4" and made a part of my testimony:

EXHIBIT 4.

SEATTLE, WASH., August 29, 1919.

Judge WICKERSHAM, Valdez:

Wired chief signal officer, August 23, your request as to assembling men under House resolution. As yet no instructions received, nor does this office know anything of resolution; therefore am unable to act under it. I will repeat your telegram of yesterday to C. S. O.

LENOIR.

I offer another telegram from Col. Lenoir to me, dated August 29, in relation to the same matter, and ask to have it marked "Exhibit 5" and made a part of my testimony:

EXHIBIT 5.

SEATTLE, WASH., August 29, 1919.

Judge WICKERSHAM, Valdez:

Have just received order to congregate all men who voted in Alaska at Valdez, Sitka, and Fairbanks. Have issued instructions to the officers in charge Valdez, Sitka, and Fort Gibbon to assist officers holding investigation in every way possible without disrupting communication in Alaska. It will be apparent to you that it will be impracticable to move men, for instance, at Nulato and outlying important places to Fort Gibbon. It is requested that you enter into communication with the officers concerned with the view of the investigating committee visiting the men who can not be brought into these central points.

LENOIR.

I next offer in evidence a copy of a communication from myself to Maj. Huston, commanding officer of the Signal Corps, Valdez, Alaska, dated August 29, requesting him to forward copy of last Lenoir telegram to Henry T. Ray at Fairbanks, and ask to have it marked "Exhibit 6" and made a part of my testimony.

EXHIBIT 6.

VALDEZ, ALASKA, August 29, 1919.

Maj. HUSTON,

*Commanding Officer, Signal Corps, Valdez, Alaska:*

I respectfully request that a copy of the official telegram addressed to me and signed by Col. Lenoir, received late this afternoon, marked "121 S I G 98 (OB Body)," in respect to compliance with House resolution No. 105, be forwarded to officer in charge Signal Corps at Fairbanks, with instructions to be governed thereby, and also to deliver copy to my agent there, Henry T. Ray. Will you kindly advise me if this can be done this evening, as the time prescribed by the resolution has almost expired, and unless quick action is taken it can have no good effect.

Respectfully,

JAMES WICKERSHAM.

Here is a copy of notice to take testimony in this case, with names of the witnesses to be examined at Anchorage, served on Mr. Dimond. My notice was served by Judge Reed. This notice is to be filed with the other papers in this case.

As soon as I reached Valdez and got so that I could be around I had a notice served on Mr. John A. Clark at Fairbanks, the agent of Mr. Grigsby, by my agent, Mr. Ray, giving notice of the taking of the testimony of 21 or 22 witnesses at Forty Mile or Jack Wade. As soon as that notice was served I sent another telegram to Charles E. M. Cole, notary public at Jack Wade, instructing him that he had been appointed notary in this case, and gave Mr. Cole a list of names of the witnesses in the telegram.

This telegram could only go to Eagle City, there being no telegraph line to Forty Mile or Jack Wade, or nearer than Eagle City, which is 35 or 40 miles distant over quite a stretch of mountain range.

The commanding officer of the Signal Corps at Valdez notified me that the telegram to Notary Public Cole would not be delivered except by deposit in the mail at Eagle City, and that I would have to run the risk of its not reaching him before September 6, the date upon which the time for taking the depositions expired.

I also sent a telegram to the postmaster at Eagle City, asking him to make special effort to get the telegram, which had been deposited in the United States mail, forwarded to Mr. Cole at Jack Wade by any person who might be going in that direction before the regular mail day. There is some doubt in my mind whether the telegram will reach Jack Wade in time to take the depositions.

I now offer in evidence, from the printed testimony in the contested election case of Wickersham v. Sulzer, Territory of Alaska, caused to be printed by the House of Representatives in the Sixty-sixth Congress, a certified copy made by the commissioner at Franklin, Alaska, of an order in which Jack Wade and other voting precincts are created in the Forty Mile commissioner's district. This certified copy appears to have been made October 1, 1918, and signed by the commissioner of Forty Mile recording district. This order divides Forty Mile recording district into voting precincts, and appears at page 81 of the official document mentioned, and is there marked "Exhibit 27."

I also offer in evidence the originals now in the hands of the Clerk of the House of Representatives of all those documents in the said printed book on pages 82, 83, 84, and 85, being Exhibits 28, 29, 30, 31, and 32 of said printed record, heretofore filed and now in the custody of the Clerk.

JAMES WICKERSHAM.

Subscribed and sworn to before me at Anchorage, Alaska, this 6th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public for the Territory of Alaska.*

#### EXHIBIT 7.

*To George B. Grigsby, contestee, and A. J. Dimond, his agent in the above-entitled proceeding:*

You are hereby notified that the depositions of John C. Probst, A. W. Walter, Septimus Irving, Charles Irvine, C. W. Mossman, Mrs. C. W. Mossman, Louis Marshall, R. A. McCullough, Harry Kingsbury, and Red McDonald will be taken before A. G. Thompson, Esq., a notary public in and for the Territory of Alaska, at his office in the town of Anchorage, Alaska, on the 3d day of September, 1919, beginning at the hour of 10 o'clock a. m. of said day, such depositions to be read as evidence in behalf of the said James Wickersham, contestant, and that the taking of such depositions will be continued from day to day thereafter and over Sundays and holidays, if any, until such depositions shall be completed.

You are requested to be present to take such action as you may deem advisable.

Dated this 27th day of August, 1919.

JAMES WICKERSHAM,  
*Contestant.*

Service of copy admitted this 27th day of August, 1919.

ANTHONY J. DIMOND,  
*Agent for Contestee George B. Grigsby.*

TERRITORY OF ALASKA,

*Third Division, Knik Precinct, ss:*

I hereby certify that James Wickersham, the witness whose testimony is given in the foregoing deposition on pages numbered 1 to 7, inclusive, appeared at the time and place before stated, and after being by me first duly sworn to tell the truth in the above entitled case, was then interrogated by me in the presence of the persons before mentioned, and that the interrogatories propounded to said witness and the answers made by said witness thereto are set forth in the foregoing deposition, together with objections and exceptions of counsel herein; that I caused said testimony to be taken and transcribed by Isabel Nelson, and when completed to be read by said witness and by said witness corrected, and that said witness then signed his name and upon oath swore that said deposition was true.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office this 10th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public.*

My commission expires May 6, 1922.

DEPOSITION OF ALVIN WALTER.

Testimony taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of said notary, in the town of Anchorage, Alaska, upon notice to George Grigsby, the substituted contestee, herein, on the 3d and 4th days of September, 1919.

The following persons were present: Arthur G. Thompson, notary public; Isabel Nelson, notary's stenographer; Thomas Price, representative of George Grigsby.

Q. Mr. Walter will you be sworn?

(Mr. Walter rises and raises right hand.)

Q. Do you solemnly swear to true answer give to the questions propounded to you in this case, in which James Wickersham is contestant and Charles A. Sulzer contestee of election to office of Delegate to Congress from the Territory of Alaska?—A. I do.

Q. State name, age, and place of residence.—A. Alvin Walter; 48; Palmer, Alaska.

Q. Mr. Walter, are you a citizen of the United States?—A. Yes, sir.

Q. How long have you been in the Territory?—A. About 17 years.

Q. You are a resident of the Territory, are you not?—A. Yes, sir.

Q. Where were you last November?—A. At Chickaloon.

Q. How long were you in Chickaloon prior to the election?—A. I went to Chickaloon on the 8th day of August, I think, of that same year.

Q. You were a resident of Chickaloon precinct at the time of the election?—A. Yes.

Q. What were you doing out there?—A. Mining.

Q. Was there an election held at that place for Delegate to Congress?—A. Yes.

Q. What date?—A. The date was the 5th of November.

Q. Were you there at that time?—A. Yes.

Q. Did you hold any official capacity in connection with the election held there at that time?—A. I was one of the judges.

Q. What party did you represent?—A. The Republican Party. I suppose you would call it.

Q. Who were the other judges of election?—A. Mr. Manning and Mr. Gompertz.

Q. Do you know John Probst who sits here beside you?—A. Yes, sir; I do.

Q. Who was present when he offered to vote?—A. There was no one except myself, as I remember. There might have been others, but I do not remember if there was.

Q. Where were the other judges of election?—A. They had gone up the creek to have Mr. Kelley vote—Mr. Frank Kelley, who was sick.

Q. Had they taken the election books and the ballot box?—A. Yes; they took the ballot box and the books.

Q. Do you know whether Mr. Kelley voted while the books and judges were away?—A. His name was on the registration books when they came back. I examined it to see.

Q. Do you know how he voted, Mr. Walter?—A. I do not.

Q. How long were the judges, with the books and ballot box, away?—A. I think it was not much over half an hour; it wasn't much over half a block—about 1,000 feet or so.

Q. What was the reason for taking the books and box and going to Mr. Kelley with them?—A. Mr. Kelley was sick and could not come out.

Q. Were there any others sick there at that time?—A. Not that I can recall.

Q. Was the "flu" prevalent at that time?—A. I think it was about over at that time. It may have been the "flu" that he had. I do not know. I know that he could not come out.

Q. Do you know whether any others voted while the books and ballot box were away?—A. Well, no others signed the registration book. Mr. Kelley was the only one.

Q. Did the judges have the ballots?—A. Yes; they took ballots with them.

Q. Would it have been possible for others to have voted while they were away?—A. Yes; they could have voted, but they could not have signed the books, as they were not signed there.

Q. Others could have voted if the judges would have permitted it?—A. No; I would not say as to that; that is a question I could not answer; no one signed the book but Mr. Kelley.

Q. But they did permit Mr. Kelley to vote?—A. Yes.

Q. You will not say, Mr. Walter, that anyone else voted while the judges were away?—A. I will say that no one else signed the books—the registration books.

Q. Mr. Walter, how long, approximately, did it take for a person to vote at that election?—A. I would not say that. It would not take more than five minutes if a man had his mind made up and knew how he intended to vote.

Q. Then, in 30 minutes it would have been possible for six persons to vote?—A. No. They would have had to cover the distance of about 2,000 feet over and back to the polls.

Q. I am referring to the time when the judges were away, with reference to whether more than one vote could have been cast during the time provided the judges had permitted it?—A. That is pretty hard to answer.

Mr. PRICE. It is not fair to ask for an opinion. An opinion is not evidence, you know, Mr. Thompson. You ought not to ask such question. I object.

(Objection overruled by Mr. Thompson.)

(Ruling excepted to by Mr. Price.)

(Question again asked. Again objected to.)

Mr. THOMPSON. Answer is pertinent and proper, inasmuch as witness has stated that 1 vote could be cast in 5 minutes, as to whether 6 could be cast in 30 minutes.

Mr. PRICE. The question is not of any pertinence to the issue, and I object to it.

Mr. THOMPSON. The objection is overruled for the reason that it appears to the notary that all votes cast while the judges of election had the books and ballot box away from the polls were illegal votes, and it is of importance to determine who voted and how many votes were cast at that time.

Mr. PRICE. The answer is out of order. It has only been established that there was one vote cast during that time, and the answer is out of order.

Q. Mr. Walter, could you answer that question?—A. Yes. I will answer that it would have been impossible to have gone that distance and vote half a dozen men and return to the polls in that time.

Q. Mr. Walter, I will now ask an hypothetical question. Suppose that while the judges were away with the books and ballot box there had been six men gathered together, ready to vote, in one place, would it have been possible for these six men to have voted during that time?—A. I can not answer that I do not believe.

Q. Mr. Walter, do you know how Mr. Kelley voted?—A. I do not.

Q. Were the judges, books, and ballot box away from the polls at any other time during the day?—A. No.

Q. Mr. Walter, what sort of a box was used as a ballot box?—A. The best I can remember, it was a 50-pound powder box, with the top nailed on and a hole cut in the top.

Q. Of what material was the box constructed?—A. Pine, I should judge.

Q. Did it have a cover?—A. Yes.

Q. Was the cover fastened?—A. Yes.

Q. In what manner?—A. Nailed on.

Q. Do you know whether the cover was removed while the judges had the ballot box away from the polls?—A. I do not.

Q. Would it have been possible for the cover to have been removed and replaced during that time and the box still present the same appearance as when it left the voting precinct?—A. No.

Q. Why not?—A. Well, the nails would have to be drawn and put back, and there would have been some show on the box.

Q. Were you present when the ballot box was opened after the voting was finished?—A. Yes.

Q. How was the box opened?—A. The nails were drawn out.

Q. What implement was used?—A. I do not just remember. A claw hatchet or claw hammer.

Q. Mr. Walter, was there anyone else there who voted while the ballot box and books were away?—A. No.

Q. Do you know whether there were any other voters there who did not vote who knew that the ballot box and books had been removed from the polling place?—A. I do not think there was.

Mr. THOMPSON. That is all.

Mr. PRICE. I do not believe that I have any questions to ask the witness.

ALVIN WALTER

Subscribed and sworn to before me this 4th day of September, 1919. at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

TERRITORY OF ALASKA,

Third Division, Knik Precinct, ss.

I hereby certify that Alvin Walter, the witness whose testimony is given in the foregoing deposition on pages numbered from 0 to 7, inclusive, appeared at the time and place before stated, and after being by me first duly sworn to tell the truth in the above-entitled case, was then interrogated by me in the presence of the persons before mentioned, and that the interrogatories propounded to said witness and the answers made by said witness thereto are set forth in the foregoing deposition, together with the objections and exceptions of counsel herein; that I caused said testimony to be taken and transcribed by Isabel Nelson, and when completed, to be read by said witness and by said witness corrected, and that said witness then signed the same, and upon oath swore that said deposition was true.

In testimony whereof I have hereunto subscribed by name and affixed the seal of my office this 10th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

#### DEPOSITION OF JOHN PROBST.

Taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, residing at Anchorage, at the office of said notary in Anchorage, Alaska, upon notice to George Grigsby, substituted contestee herein, at the convening of the continued hearing, on the 4th day of September, 1919.

The following persons being present: Arthur G. Thompson, notary public appointed herein; Isabel Nelson, notary's stenographer; Thomas Price, representing George Grigsby.

The taking of testimony in the above-entitled case was resumed at 10 a. m. September 4, 1919, before Arthur G. Thompson, the notary public designated to take said testimony at Anchorage, Alaska, there being present certain witnesses, cited to appear, and Mr. Price, the representative of the contestee.

Mr. PRICE. Before beginning the hearing of the witnesses present, I wish to make a motion that the entire testimony of "Red" McDonald, heretofore given, be not admitted to the record herein because: (1) He was not a voter



at that election. (2) He had no right to vote, and did not vote. (3) His testimony is based upon hearsay and therefore not competent evidence.

Mr. THOMPSON. The motion is denied.

Mr. PRICE. Exception taken to the decision.

Mr. THOMPSON. I do not know what judicial capacity is given me in this matter of ruling on the testimony in this case, or what proceedings will be had in the House, but your motion is denied by me and your exception will be of record herein. The admissibility of the evidence will be decided by the House.

Thereupon the taking of testimony was resumed, as follows:

Mr. THOMPSON. Mr. Probst, will you be sworn?

Do you solemnly swear to true answer give to all questions that may be asked you in this case, in which James Wickersham is contestant and Charles A. Sulzer contestee of the election to Congress as Delegate from the Territory of Alaska?

Mr. PROBST. I do.

By Mr. THOMPSON:

Q. Please state your name, age, and place of residence.—A. Chickaloon; John C. Probst; 70 years.

Q. Where do you reside at present?—A. I live now in Anchorage.

Q. Are you a citizen of the United States?—A. Yes.

Q. Where were you last November?—A. In Chickaloon; I had a pool room and store there.

Q. You were running a pool room and store there at that time?—A. Yes.

Q. How long had you been in Chickaloon precinct prior to November 5?—A. About a year, maybe a few days more; I went out on the first train there; a year or so, I do not know exactly.

Q. Were you there last November, when the election was held for Delegate to Congress from Alaska?—A. Yes.

Q. You were residing there at that time?—A. Yes.

Q. Where was the—in what place was the election held, Mr. Probst?—A. Why, in Mr. Carlson's road house; about 125 feet from my house. I am 75 and he is 50 feet from the railroad.

Q. What business were you in there, Mr. Probst?—A. Pool room; grocery.

Q. Who were the judges of election?—A. Fellow named Gompertz, Mr. Manning and Al. Walter.

Q. Did you vote, Mr. Probst?—A. No, sir; because I couldn't.

Q. Did you go to vote?—A. Yes, sir.

Q. State why you could not vote?—A. I went over about half-past 2 or 3 o'clock; and Walter—he was one of the judges—was there and he said, "Probst, you can not vote now." I said, "Why?" and he said, "There are no books here." I said, "Where are they?" and he said, "They have taken them up the creek." I said, "This is a fine place for polls—books up the creek." I could not see anything like polls; anyhow, I could not see any ballot box, so I came back.

Q. Did Mr. Walter say anything about the ballot box?—A. No; he only said, "They took the books up the creek."

Q. Whom did he mean by "they"?—A. I guess the other judges. There was nobody there but himself. He was the only one I saw there or noticed there at that time.

Q. Did you go back again to vote?—A. No; I did not go back afterwards; when I got back to my place the 4 o'clock shift men were coming and I was busy—could not leave.

Q. If you had been permitted to vote, for whom would you have voted?—A. —

Mr. PRICE. Objected to. Witness does not have to answer.

Objection overruled.

Mr. PRICE. Witness does not have to answer unless he desires.

A. I can answer that. I would have voted for Mr. Wickersham; I think he is the best man.

Q. Do you know how long the books were away from the polling place?—

A. No, sir.

Q. Do you know if the ballot box was removed from the polling place?—

A. No, sir; I do not know; I saw nothing of it.

Q. Do you know whether anyone voted while the books were away?—A. No, sir.

Q. Did you have any opportunity to vote?—A. Well, this Mr. Manning came over to my place at about 4 or half-past 3, maybe, and he said to me, "You can go over and vote now." I told him I had no time now.

Q. Did he say anyone had voted while the books were removed?—A. I did not ask him.

Q. Did he say at any time afterwards that anyone else had voted while the books were away?

Mr. PRICE. Objection.

Mr. THOMPSON. Overruled.

A. Well, I heard him say in my place—Joe Des Champs was in my place and some talk came up about this election, and Manning said he had a perfect right to take the books to a sick man. The fellow he took them to was a man by the name of Kelley, a timekeeper at the coal mines.

Mr. PRICE. Objection; hearsay.

Mr. THOMPSON. Overruled.

Q. Go on, Mr. Probst.—A. Manning said to him (Joe D.), "Was there anyone who did not get to vote." And he said he did not know of anyone. And Manning said to him he had a perfect right to take the books to a sick man; that he had taken them to a man named Kelley, who was sick with the "flu"; and when they got there he wouldn't open the door, and they passed the books through a window to him. And I answered them that they had no right to take the books from the polling place from 8 in the morning till 8 at night.

Q. What was Kelley's business there?—A. Timekeeper.

Q. Was anything said at that time as to how Kelley voted?—A. No, sir.

Q. Do you know how he voted?—A. No, sir.

Q. Do you know whether any one else voted at that time?—A. I do not. There were lots sick with the "flu." I would not answer that question.

Q. Do you know how long the books were taken away from the polls?—A. No. I did not see them go; nor come back. I know nothing of that.

Q. Do you know how many were sick with the "flu" at that time there?—A. I can not tell—eight or nine—most everybody had it. I was just getting on my feet from it then.

Q. Do you know what kind of a ballot box was used?—A. No, sir. I did not see it. Don't know if they had any. I did not see one.

Q. Do you know to what political party Mr. Walter, who was one of the judges of election, belonged?—A. No, sir. I do not. I do not know it now.

Cross-question by Mr. PRICE:

Q. When did you start in business in Chickaloon?—A. Well, I think it was—I went up on the first train from King River to Chickaloon sometime in October two years ago, sometime this coming month.

Q. What was the time you left Chickaloon—discontinued business in Chickaloon?—A. Last month, in July. The first of July.

Q. What business did you conduct there?—A. Pool room and grocery store.

Q. What character of goods did you sell in this grocery?—A. All kinds of meat, canned goods, bacon, all kinds of groceries, cigars, tobacco, soft drinks.

Q. Soft drinks?—A. Yes, sir.

Q. Any other than soft drinks?—A. No, sir.

Q. Why did you discontinue business there?—A. They got sore at me and told me that I would have to move; they needed my ground. I had to move on three-days' notice.

Q. Who got sore?—A. I guess that it was that fellow Kelley; or the Czar of Chickaloon, Sumner Smith, his boss. Kelley was timekeeper for the coal outfit. The Czar, they call him, Sumner Smith, was manager.

Q. Did he say why he got sore at you?—A. He never told me.

Q. Did he tell any one?—A. Yes; he told Joe Des Champs. It was on account of a mortgage being foreclosed. They had some money coming from the store, and I allowed the mortgage to be foreclosed, because I would not pay for goods that was damaged.

Q. Isn't it a fact that the authorities there charged you with having gambling in connection with your business there, and that in a hearing testimony was given that you had sold liquor?

Mr. THOMPSON. I can not see wherein this question bears upon the matter of voting. I think Mr. Probst should not be required to answer the question.

Mr. PRICE. I asked the question to show the character of the witness and his malice toward the authorities and others there in Chickaloon. I make a motion that witness be required to answer the question.



In testimony whereof I have hereunto subscribed my name and affixed the seal of my office this 10th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public in and for the Territory of Alaska,  
Residing at Anchorage.

My commission expires May 6, 1922.

ANCHORAGE, ALASKA, September 3, 1919.

The hearing was called at 10 o'clock a. m. by Arthur G. Thompson, the notary public designated to take testimony in the above-entitled case at Anchorage, Alaska, there being present the following subpoenaed witnesses: Malcolm (Red) McDonald, James Wheelock, Charles Irvin, John Probst, Charles McGroarty, Al Walters.

Owing to the absence of Mr. Thomas Price, representative of the contestee, the hearing was adjourned to 1 o'clock p. m.

#### DEPOSITION OF JAMES H. WHEELOCK.

The hearing in the above-entitled case was resumed at 1.15 p. m., the above-named witnesses, cited to appear, being present, but waited over half an hour for Mr. Price. At 2 p. m., Mr. Price being present, Mr. Wheelock was called to the stand.

Mr. THOMPSON. Mr. Wheelock, will you be sworn?

Mr. WHEELOCK. I will.

Mr. THOMPSON. Do you solemnly swear to give true answer to all questions asked you in the case in which James Wickersham is contestant and Charles A. Sulzer, contestee, of the election to the delegateship to Congress from the Territory of Alaska?

Mr. WHEELOCK. Yes, sir, as near as I can.

Q. Mr. Wheelock, please state your name, age, and place of residence.—A. James H. Wheelock, 33 years of age; Anchorage, now.

Q. Mr. Wheelock, where were you in the early part of last November?—A. Cache Creek and vicinity.

Q. Were you there when the election was held in November—at Cache Creek?—A. Yes, sir.

Q. State the date on which it was held?—A. On November 5.

Q. Were you employed there, Mr. Wheelock?—A. Yes, sir.

Q. By whom?—A. The Cache Creek Dredging Co.

Q. What was going on there that day with respect to leaving the camp?—A. That I can not say. I left in the morning and do not know.

Q. What was being done with respect to closing down and men leaving?—A. Well, really, I can not say; I do not know, in fact.

Q. Did any of the men leave on the morning of the 5th, Mr. Wheelock?—A. Yes.

Q. About how many, if you know?—A. I should say between 20 and 30. I do not know exactly.

Q. Had the work of the Cache Creek Co. closed down at that time?—A. Yes, sir.

Q. Do you know at what time the polls opened on that morning, Mr. Wheelock?—A. I do not.

Q. Did you vote?—A. I did.

Q. At what time of day did you vote?—A. That I can not say. I never noticed the time.

Q. What was the condition of the light at the time you voted?—A. Lamp-light.

Q. The lamps were lighted?—A. Yes, sir.

Q. Where was the voting done, Mr. Wheelock?—A. In the dining room of the company's camp.

Q. Is that where you voted?—A. No, sir; I voted at my place. They brought me the ballot box.

Q. From the place where the election was held?—A. Yes, sir.

Q. Were the lamps lit in your place, Mr. Wheelock?—A. Yes, sir.

Q. It was dark then, outside?—A. Yes, it was.

Q. Did you have a clock or watch by which you could tell the time?—A. I had a watch, but did not notice the time.

Q. What time did the day shift go to work?—A. At 7 o'clock.

Q. What was the condition of the light there at 7 o'clock?—A. It wasn't daylight at 7.

Q. How soon after 7 did it get light?—A. I should say a quarter or half past; something like that.

Q. How soon after you voted did you leave, Mr. Wheelock?—A. Twenty minutes or so.

Q. Did you leave with the others?—A. Some went ahead of me.

Q. Did you leave with the bunch of men leaving at that time with horses?—A. I left quite a while after them.

Q. How did you go?—A. They took me with the dog team.

Q. Is there any way by referring to conditions there to determine the time at which you voted?

Mr. PRICE. Objection. You are asking for an opinion only.

Mr. THOMPSON. Overruled.

Mr. PRICE. Exception.

A. Previous to the morning of the voting, about two weeks previous, the cable broke where I was working, and we worked on it without lights. Some of the boys may have had lanterns. I could not say.

Q. That was how long before you left?—A. Two weeks previous.

Q. What time do you think it was?

Mr. PRICE. Objection.

Mr. THOMPSON. Overruled.

A. I should judge around close to 8 o'clock; 7.30, something like that.

Q. Do you know anything about a clock being set ahead?—A. I do not.

Q. Mr. Wheelock, for whom did you vote?

Mr. PRICE. Objection. The question is not a proper one. Nobody has a right to ask that. Mr. Wheelock does not have to tell for whom he voted.

Mr. THOMPSON. Overruled.

Mr. PRICE. Mr. Wheelock, you do not have to answer that question unless you please.

Objection repeated.

Mr. THOMPSON. Overruled. I understand the law to be that a witness may be asked to state for whom he voted in case of illegal voting. It is so laid down in the Encyclopedia of Pleading and Practice and cases cited.

Mr. PRICE. Illegal voting not shown.

Mr. THOMPSON. The witness's testimony clearly shows that he voted before 8 o'clock, the legal opening time, and at a place other than where the election was held, and for these reasons his vote was illegal, and he may be required to answer the question.

A. What I like is not the matter. I do not remember the names of all of the men for whom I voted.

Q. How many do you remember?—A. I only remember the names of two men I voted for.

Q. Who were they?

Mr. PRICE. Objection, as before.

Mr. THOMPSON. Overruled. I rule that he may answer the question. I do not know what proceedings will be held in the House herein, nor how far my authority goes in requiring answer to any of these questions, but it appears to me that the witness may be required to answer and the House decide upon the exception you are entitled to take to my ruling.

Mr. PRICE. Exception.

A. I recollect two men I voted for. Those men were Mr. Price and Mr. Sulzer; just two that I recollect.

Mr. PRICE. I thank you for your vote, Mr. Wheelock.

Q. Mr. Wheelock, you do not know what time the voting polls opened?—A. I do not.

Q. You can not say from your own knowledge that they opened before 8, can you?—A. No; I can not say for certain; I rather think it was.

Q. You can not say for certain?—A. I can not say for certain.

Mr. PRICE. That is all.

JAMES H. WHELOCK.

Subscribed and sworn to before me this 9th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.



## TERRITORY OF ALASKA.

*Third Division, Knik Precinct, ss:*

I hereby certify that James Wheelock, the witness whose testimony is given in the foregoing deposition on pages numbered 1 to 6, appeared at my office at Anchorage, Alaska, on the date and at the time before given, and after being by me first duly sworn to tell the truth in the above-entitled case, was interrogated by me and by Thomas Price, the representative of the contestee, in the presence of the persons above mentioned, and that said witness answered said interrogations all as set forth in the questions and answers in said deposition contained; that thereupon I caused said deposition, together with the objections and exceptions of counsel herein, to be transcribed by Isabel Nelson from the stenographic notes taken by her during said examination, and when said deposition was completed the same was read by said witness and by said witness corrected, and that said witness then signed the same, and upon oath swore that said deposition was true.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office this 10th day of September, 1919.

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

## DEPOSITION OF MRS. JAMES WHEELOCK.

Testimony taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of said notary in the town of Anchorage, Alaska, upon notice to George Grigsby, the substituted contestee herein, on the 3d day of September, 1919.

Mr. THOMPSON. Mrs. Wheelock, please raise your right hand and be sworn. Do you solemnly swear that you will true answers give to the interrogatories which may be propounded to you in this case, in which James Wickersham is the contestant and Charles A. Sulzer is the contestee, for Delegate to Congress from Alaska?

Mrs. WHEELOCK. I do.

Mrs. WHEELOCK, being duly sworn, gave the following testimony:

By Mr. THOMPSON:

Q. Please state your name, age, and place of residence.—A. Mrs. Bessie Wheelock; aged 29; Anchorage.

Q. Mrs. Wheelock, where were you last November, in the early part of that month?—A. I think in Cache Creek. Some time in the early part of November we left Cache Creek.

Q. Was there an election held there at that time?—A. The very morning that we left.

Q. What day was that?—A. I can not tell that; on the 4th or 5th of November.

Mr. WICKERSHAM. We will agree that it was on the 5th.

Q. Did you vote at that election, Mrs. Wheelock?—A. I did not vote.

Q. Why did you not vote?—A. I was told that I had no vote.

Q. You were leaving there on that morning?—A. Yes, sir.

Q. What were the conditions that morning with respect to breaking up and going away?—A. They were all ready to leave.

Q. Did all leave at the same time?—A. All went at the time the horse sleds left, except Mr. Wheelock, who came later with the dog teams.

Q. About how many left that morning?—A. I think there were about 26 in the bunch.

Q. Did you leave with the horse sleds?—A. Yes. Mr. Wheelock came with the dog team later.

Q. How many horse sleds were there?—A. Five.

Q. Altogether, with you?—A. Yes, sir.

Q. Do you know what time the polls opened, Mrs. Wheelock?—A. I would not wish to say that, Mr. Thompson.

Q. Did you see anyone else vote when Mr. Wheelock voted or while the ballot box was there?—A. I did not see anyone.

Q. Where was the polling place?—A. In the office.

Q. Is that in the cabin known as Jim Murray's?—A. It is not.

Q. About what time did they bring the ballot box there to your place, do you know?—A. I do not know.

Q. Did you have a light in the tent then?—A. I do not know that. We had a light and were packing still when the registrar, Mr. John Carlson, came to the tent to register some men.

Q. What registrar was that?—A. The Army registrar; came to register some men.

Q. Did he have any difficulty in doing so?—A. No; only we had to unpack the books; that was all.

Q. How long after Mr. Wheelock voted did you leave?—A. Half an hour or more.

Q. Did you notice any lights when you left?—A. Yes; in Mr. Harris's place.

Q. Do you know whether the packing was done by lamp or day light?—A. I know that it was done by lamplight.

Q. Were there any lights used by the sleds at the time you started or afterwards?—A. I can not say.

Q. Did you have a clock in your place?—A. Only a watch. The clock was packed away. I can not tell you the moment we left.

Q. Did you hear anything about getting an early start in order to reach camp?—A. I heard about getting an early start, but nothing else.

Q. Were there any lights used by the sleds at the time they started or afterwards?—A. I can not say.

Q. Did you hear anything about setting a clock ahead?—A. No; I did not.

Q. How did it come that you did not vote?—A. I did not have the right to vote.

Q. Were you informed that you had no right to vote?—A. Yes, sir.

Q. Was there any effort made to get you to vote?—A. Only that a lady there, Mrs. Allison, said to me, "If you do vote, vote for Mr. Sulzer if for anyone," but that made no difference to me, as Mr. Harris had informed me that I had no right to vote.

Q. Was it light enough when you left to see from one sled to the other, Mrs. Wheelock?—A. I can not say. I am positive that we left before 8 o'clock.

Q. You are positive you left before 8?—A. Yes.

Q. Did you notice when you passed the dredge how the light was?—A. I only know that when we came to the Little Glacier at the dredger some of the sleds ran into the lines.

Q. How far is that?—A. Not more than a quarter or half mile; not sure of the distance.

Mr. THOMPSON. That is all I think of. Judge Wickersham, do you think of any question?

Judge WICKERSHAM. I do not.

Q. Mrs. Wheelock, how long have you been in Alaska?—A. One year the 4th of last July.

Q. You made a statement that you were sure that it was 8 o'clock when you left; was that from looking at a watch, or timepiece, or just your opinion?—A. Just my opinion.

Q. Not from knowledge, just opinion?—A. Yes, sir.

Mr. PRICE. I object to the testimony of this witness, because (1) she was not a voter, (2) she was not entitled to vote, (3) she was not a competent witness.

Objection overruled.

Exception noted.

MRS. JAMES WHEELOCK.

Subscribed and sworn to before me this 9th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

TERRITORY OF ALASKA,

*Third Division, Knik Precinct, ss.:*

This is to certify that Mrs. James Wheelock, the witness whose testimony appears in the foregoing deposition, appeared before me at the time and place in this deposition stated, and after being first duly sworn by me to tell the truth in the above-entitled case, was then and there interrogated by me touching the matters at issue in said case, and that the interrogatories propounded to said witness and the answers given by said witness to said interrogatories are set forth in said deposition, together with objections and exceptions of counsel herein; that I caused said deposition to be taken and

transcribed by Isabel Nelson, stenographer, and when completed the same was read by the witness, and by her corrected, and that said witness then signed the same, and upon oath swore that said deposition was true.

That said deposition was taken pursuant to adjournment of the hearings for the purpose of taking depositions on behalf of the contestant herein, and to the attached stipulation.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 10th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for the Territory of Alaska,*  
*Residing at Anchorage.*

My commission expires May 6, 1922.

#### DEPOSITION OF HARRY KINGSBERRY.

Testimony taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of said notary in the town of Anchorage, Alaska, upon notice to George Grigsby, the substituted contestee, on the 2d day of September, 1919.

Upon stipulation entered into with Thomas Price, representing George Grigsby herein, and Dr. F. M. Boyle, representing contestant.

The following persons were present: Arthur G. Thompson, notary public; Isabel Nelson, notary's stenographer; Thomas Price, representative of George Grigsby.

Mr. THOMPSON. Mr. Kingsberry, will you please raise your right hand and be sworn? Do you solemnly swear to true answers give to the interrogatories which may be propounded to you in this case in which James Wickersham is the contestant and Charles A. Sulzer is the contestee for Delegate to Congress from Alaska?

Mr. KINGSBERRY. I do.

By Mr. THOMPSON:

Q. What is your name, age, and place of residence?—A. Harry Kingsbury, 37, Anchorage.

Q. Where were you last November?—A. At Cache Creek.

Q. Was there an election held there at that time?—A. I believe there was; on the 5th of November.

Q. This election was for Delegate to Congress?—A. I believe so; yes.

Q. Did you vote at that election?—A. I did.

Q. At that time, Mr. Kingsbury, had you been in Alaska Territory?—A. About 15 years.

Q. You are a resident of the Territory?—A. Yes, sir.

Q. About how long in that precinct?—A. About the 10th of April, or 9th; not sure.

Q. You were a resident of that precinct at that time, were you?—A. Yes, sir.

Q. Are you a citizen of the United States?—A. Yes.

Q. What date in November was that election held?—A. The 5th day of November.

Q. What time did the polls open, Mr. Kingsbury?—A. I would not say, sir.

Q. What time did you vote?—A. Could not say that.

Q. Where were you during the day?

WITNESS. After we voted?

Mr. THOMPSON. Yes.

A. On the trail between Talkeetna and Cache Creek.

Q. What operations were being conducted there at that time?—A. Well, I was in there with the Cache Creek Dredging Co.

Q. What were the circumstances on that day with regard to the people there coming out or staying in the place?—A. I do not know just what they were.

Q. Did you leave on the 5th day of November?—A. Yes.

Q. How many were leaving at that time?—A. Well, there were probably 30; 25 or 30.

Q. Did that include all the population of that place?—A. No, sir.

Q. How many remained?—A. Well, for the Cache Creek Co. there were five or six men. Some, I believe, went by McDougal.

Q. Then, as I understand you, work for the season was concluded—shut down—and most of the employees were coming out?—A. Yes; the season was ended.

Q. Do you recall, Mr. Kingsbury, what time you got out in the morning?—  
A. I can not say sure; about daylight; had been in the habit of getting out about 6 o'clock.

Q. Did you assist in the work of getting ready to leave on that day?—A. I did.

Q. Was that done with lanterns or artificial light or by daylight?—A. It was done before daylight; bigger part of it.

Q. How did you bring your stuff out at that time, by horses or dogs?—A. Both; horses and dogs.

Q. How many teams did you have?—A. I believe five double-enders.

Q. What was the condition of the light at the time that you left?—A. I believe that you might call it twilight; it was getting light; I think twilight is what you might call it.

Q. Were you using artificial light before you left?

WITNESS. Just before we left or getting ready?

Mr. THOMPSON. To help getting the sleds ready.

A. We had lights getting the sleds ready to go.

Q. What lights did you have to help you?—A. Only common lanterns; that is all the light I ever saw used.

Q. Do you recall whether you were using lanterns at the time you left or not?—A. No; I do not.

Q. Have you any means of telling the time that you left, Mr. Kingsbury?—

A. I can not, only that it was just getting daylight.

Q. What do you mean by "just getting daylight"?—A. That it was twilight; can not say just what time; getting day.

Q. Where was the place you voted?—A. At a cabin near the cookhouse; there were 8 or 10 cabins; forget just how it was situated; there was a notice of election on the cabin; it was the cabin Jim Murray lived in where the election was held.

Q. Where you voted were the judges using lights?—A. I believe they were.

Q. Had you had your breakfast, Mr. Kingsbury?—A. Yes.

Q. Had you had your breakfast by candlelight?—A. I can not recollect—had been doing it right along.

Q. Was there anyone else present when you voted, beside the judges?—A. I do not recollect.

Q. Did you see anyone else there? Anyone vote at the time you did?—A. Could not say.

Q. Anyone vote before you did?—A. Could not say.

Q. Did you have a watch?—A. Yes; I did.

Q. Can you recall whether you took any note of the time when you left?—A. No.

Q. How far was it from camp to the dredge?—A. I should judge about three-quarters of a mile—in the neighborhood of that, I guess.

Q. Do you recall whether there were lanterns or lights used after you had started—gone that far?—A. I did not use any.

Q. What was the condition of the road, at least as far as the dredge?—A. There was fresh snow—broke trail that far.

Q. What kind of work had you been doing there, Mr. Kingsbury?—A. Working in the mines.

Q. What time did you go to work in the mine?—A. At 7.30.

Q. What was the condition of the light, in November, when you went to work?—A. Breaking day.

Q. That would be about 7.30?—A. Yes.

Q. How far was it to your work?—A. About three-quarters of a mile.

Q. Did you go to work at 8?—A. We went to work at 7.30.

Q. Did you use a light to go to your work?—A. I do not know that I ever did. I may have; I do not know.

Q. You could see to go to your work?—A. Yes. There was snow on the trail; could see.

Q. Where did you work, on top, or underground?—A. Underground.

Q. Have you any way of determining the time that you voted—that is, whether before or after 8 o'clock?—A. That I could not say sure; all I know that it was about daylight.

Q. What do you mean by "about daylight"?—A. I never called it anything but this—just getting so you could see to get around.

Q. How long before you left did you vote?—A. I voted the last thing I did before I left.

Q. Was it before 8 o'clock?—A. I could not say it was before 8 o'clock.

Q. Was it after 8 o'clock?—A. I could not say it was after 8 o'clock.

Q. You can not say what time it was?—A. No; I can not say.

Q. Did you hear anyone say anything about moving a clock ahead?—A. No; not till I came to Anchorage.

Q. Who did you vote for?

Mr. PRICE. Objection. Witness need not answer.

Mr. THOMPSON. I understand that where the witness voted illegally, he may be required to state how he voted. I understand that to be the law.

Mr. PRICE. No foundation for the question has been laid. The question is out of order.

HARRY KINGSBERRY.

Subscribed and sworn to before me this 2d day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON.

*Notary Public.*

My commission expires May 6, 1922.

TERRITORY OF ALASKA,

*Third Division Knik Precinct, ss:*

I hereby certify that Harry Kingsberry, the witness whose testimony is given in the foregoing desposition on pages numbered 1 to 7 appeared at my office at Anchorage, Alaska, on the date and at the time before given, and after being by me first duly sworn to tell the truth in the above entitled case, was interrogated by me and by Thomas Price, the representative of the contestee, in the presence of the persons above mentioned and that said witness answered said interrogations, all as set forth in the questions and answers in said deposition contained, that thereupon I caused said deposition, together with the objections and exceptions of council herein, to be transcribed by Isabel Nelson from the stenographic notes taken by her during said examination, and when said deposition was completed the same was read by said witness, and by said witness corrected, and that said witness then signed the same, and upon oath swore that said deposition was true.

That said deposition was taken pursuant to the notice given by the contestant to the contestee in said case, and pursuant to the attached stipulation.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office this 10th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,

*Notary Public.*

My commission expires May 6, 1922.

DEPOSITION OF CHARLES M'GROARTY.

Testimony taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of said notary, in the town of Anchorage, Alaska, upon notice to George Grigsby, the substituted contestee, herein, on the 3d day of September, 1919.

The following persons were present: Arthur G. Thompson, notary public; Isabel Nelson, notaries' stenographer; Thomas Price, representative of George Grigsby.

Mr. THOMPSON. Mr. McGroarty, will you please your right hand and be sworn? Do you solemnly swear to give true answers to the interrogatories which may be propounded to you in this case in which James Wickersham is the contestant and Charles A. Sulzer is the contestee, for Delegate to Congress from Alaska?

Mr. MCGROARTY. I do.

By Mr. THOMPSON:

Q. Please state your name, age, and place of residence?—A. Charles McGroarty; 44 years; Anchorage.

Q. Are you a citizen?—A. Yes, sir.

Q. Were you a citizen last November?—A. Yes, sir.



Q. Were you in the Territory prior to last November, and how long?—

A. Yes; three years this last trip.

Q. Where were you last November?—A. Cache Creek.

Q. How long were you in the Cache Creek precinct prior to the election?—

A. I can not say exactly. I went in with Irvin the time he took the horses in there.

Q. Had you been in the precinct 30 days?—A. I can not swear to that.

Q. Any way to determine?—A. Well, I worked 21 shifts in the mine; laid around two or three days before I went to work; took us two or three days to go in and I was in the Talkeetna district.

Q. Would not you be positive that you were in the precinct 30 days before election?—A. I could not say as to that. Would not try to.

Q. You were there at the time of the election?—A. Yes.

Q. What date was it held?—A. The 5th of November.

Q. Do you recall the conditions of the camp in regard to closing up and leaving on the morning of the 5th.—A. The work had closed down and we were in a hurry to leave and were getting ready.

Q. Did you leave that morning?—A. Yes.

Q. Where was the voting held?—A. In Jim Murray's cabin.

Q. Did you vote?—A. Yes, sir.

Q. After or before breakfast?—A. After breakfast.

Q. Do you know when you went to the polls?—A. No, sir.

Q. What time when you voted?—A. Can not say. I went to the polls and voted by lamplight.

Q. Did you notice the cook's time?—A. No, sir.

Q. Did you notice the time when in Murray's cabin?—A. I did not remember.

Q. Did you notice any lights burning when you left?—A. We left in about 15 minutes. I did not notice the light after voting.

Q. Did you notice if there was a light in Murray's cabin still?—A. I didn't notice.

Q. What were you doing there?—A. Working in the mines.

Q. For the Cache Creek Co.?—A. Dredging.

Q. What time did you go to work?—A. Seven-thirty.

Q. What was the condition of the light in the early part of November when going to work?—A. Some packed a light. I never did. The men brought their lights down at nights and packed them in the morning going to work.

Q. Taking them back lighted?—A. Yes, sir.

Q. Did you hear any talk about setting the clock ahead?—A. No.

Q. Did you see any one else vote?—A. No, sir.

Q. Did you know any one who voted after you did in the crew leaving there that morning?—A. No, sir.

Q. For whom did you vote?

Mr. PRICE. I object. The witness need not answer. A man does not have to tell for whom he voted. He is protected by law in that.

Mr. THOMPSON. Objection overruled.

A. I voted for Sulzer, for one, anyhow.

CHAS. MCGROARTY.

Subscribed and sworn to before me this 6th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

TERRITORY OF ALASKA,

Third Division, Knik Precinct, ss:

I hereby certify that Chas. McGroarty, the witness whose testimony is given in the foregoing deposition on pages numbered from 1 to —, inclusive, appeared at the time and place before stated, and after being by me first duly sworn to tell the truth in the above-entitled case, was then interrogated by me in the presence of the persons before mentioned, and that the interrogatories propounded to said witness and the answers made by said witness thereto are set forth in the foregoing deposition, together with the objections and exceptions of counsel herein; that I caused said testimony to be taken and transcribed by Isabel Nelson, and when completed, to be read by said witness,

and by said witness corrected, and that said witness then signed the same, and upon oath swore that said deposition was true.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office this 10th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

DEPOSITION OF CHARLES IRVIN.

Testimony taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of said notary in the town of Anchorage, Alaska, upon notice to George Grigsby, the substituted contestee herein, on the 3d day of September, 1919.

The following persons were present: Arthur G. Thompson, notary public; Isabel Nelson, notary's stenographer; Thomas Price, Representative of George Grigsby.

Mr. THOMPSON. Mr. Irvin, please raise your right hand and be sworn. Do you solemnly swear that you will true answers give to the interrogatories which may be propounded to you in this case, in which James Wickersham is the contestant and Charles A. Sulzer is the contestee for Delegate to Congress from Alaska?

Mr. IRVIN. I do.

By Mr. THOMPSON:

Q. State your name, age, and place of residence, please.—A. Charles Irvin; 36; Anchorage.

Q. Where were you in the early part of November, 1918?—A. Cache Creek.

Q. What were you doing there?—A. Working for dredging company.

Q. What kind of work were you doing?—A. Cooking.

Q. Was there an election held there at that time?—A. Yes.

Q. What day, if you know, was the election held?—A. November 5.

Q. It was for the purpose of electing a Delegate to Congress, was it not?—A. Partly, I suppose.

Q. What was the situation there relative to closing down work and getting ready to leave?—A. Work was closed down and we were getting ready to leave.

Q. Did you leave that morning?—A. We did.

Q. Where was the voting done?—A. I believe it was in what was called Jim Murray's cabin. In a cabin anyway; it was right there amongst the other cabins.

Q. Do you know what time the polls opened, Mr. Irvin?—A. I do not.

Q. Did you have any means of telling the time?—A. I did.

Q. What time was it when you left?—A. I do not know.

Q. Before breakfast or after breakfast?—A. After.

Q. What time did you have breakfast?—A. I could not say and be sure.

Q. Did you have a clock?—A. Yes, sir.

Q. You did not notice what time it was?—A. Probably, but I do not remember.

Q. Do you remember any particular part of that morning when you did notice the time?—A. I certainly noticed at one part, because I get up by an alarm.

Q. For what time was it set?—A. It was usually set for 4.30.

Q. Do you know for what time it was set on that morning?—A. I am not sure.

Q. Do you remember it was moved ahead on that morning?—A. No.

Q. Is Mr. McDonald's statement correct in that respect?—A. I would not dispute it.

Q. What time did the day shift go to work at that time of year?—A. At 7 and 7.30 at two different places—on the dredge at 7; coal mine at 7.30.

Q. Do you recall the condition of the daylight at the time the 7.30 shift went to work?—A. I can not say that I do remember; I was never outside and do not remember how the light was.

Q. Did you have breakfast by lamplight?—A. Yes.

Q. When the 7.30 shift left, were the lights lit after they had left—still burning?—A. Well, they might be. I would not take time to turn them out. When I got around to it I would blow them out. Usually would blow them out at full daylight; as soon as it was fully light.

Q. Do you recollect about the lights when you cleared up after breakfast and washed the dishes?—A. I do not do that kind of work.

Q. Do you recall if lights were used for this work?—A. On this particular morning or in general?

Q. In general.—A. I would leave the table and go to another part of the house.

Q. Did you have duties to perform after breakfast?—A. Yes.

Q. What did you do?—A. The first thing was making the pies. I did need a light.

Q. Did you leave camp with the rest of the bunch with Mr. McDonald?—A. Yes.

Q. Did you notice the time?—A. No, sir.

Q. Did you notice the time shortly after that?—A. No.

Q. Did you notice the time when you passed the dredge?—A. I did not.

Q. Can you say, Mr. Irvin, at what time daylight came on the morning of November 5?—A. I can not.

Q. Did you notice when you left if lights were still burning?—A. They was.

Q. Were they still burning in Jim Murray's cabin?—A. I did not notice.

Q. Did you vote, Mr. Irvin? For whom did you vote?

Mr. PRICE. Objection. Witness does not have to answer the question. The law protects a citizen in that. His vote does not have to be exposed.

Q. Are you a citizen, Mr. Irvin?—A. Yes, sir.

Q. How long had you been in Alaska prior to November?—A. Since 1915.

Q. How long in the Cache Creek district?—A. Since March, 1918.

Q. For whom did you vote?

Mr. PRICE. Objection.

Mr. THOMPSON. Overruled the objection.

Mr. PRICE. I will state that the witness does not have to answer if he does not wish to.

A. Well, I do not know of any reason why I should not say. I have told some around town. I told John Frame. I guess he is responsible for my being here. I voted for Sulzer.

Mr. PRICE. One question: In the early part of November, in November in that district, can you tell what time it becomes daylight?

WITNESS. It would depend on the place you were in. It would be much different, great deal darker, especially in the house.

CHAS. IRVIN.

Subscribed and sworn to before me this 4th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

TERRITORY OF ALASKA,

*Third Division, Knik, precinct, ss:*

I hereby certify that Charles Irvin, the witness whose testimony appears in the foregoing deposition, appeared before me at the time and place in this deposition before stated, and after being first duly sworn by me to tell the truth in the above-entitled case, was then and there interrogated by me touching the matters at issue in said case, and was also interrogated by Thomas Price, the representative of George Grigsby, the substituted contestee herein, and that the interrogatories propounded to said witness and the answers made by said witness to said interrogatories, together with the objections and exceptions of the representatives of the parties hereto and the ruling therein, are set forth in said deposition; that thereupon I caused said deposition to be taken and transcribed by Isabel Nelson, stenographer, and when completed the same was read by said witness, and by said witness corrected, and that said witness then signed the same, and upon oath swore that said deposition was true.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office, this 10th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public in and for the Territory of Alaska,  
Residing at Anchorage.

My commission expires May 6, 1922.

## DEPOSITION OF MALCOLM (RED) M'DONALD.

Testimony taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of said notary, in the town of Anchorage, Alaska, upon notice to George Grigsby, the substituted contestee, on the 3d day of September, 1919.

The following persons were present: Arthur G. Thompson, notary public; Isabel Nelson, notary's stenographer; Thomas Price, representative of George Grigsby.

Mr. THOMPSON. Mr. McDonald, do you solemnly swear to true answer give to the questions asked you in this case in which James Wickersham is contestant and Charles A. Sulzer contestee of election to the delegateship to Congress from the Territory of Alaska?

Mr. McDONALD. I do.

Q. State your name, age, and place of residence.—A. Malcolm McDonald, 42; Anchorage.

Q. Are you not commonly known as "Red" McDonald, by which name you were subpoenaed in this case?—A. Yes.

Q. Mr. McDonald, where were you in the early part of last November, 1918?—A. Cache Creek, working for the Cache Creek Dredging Co.

Q. What sort of operations were this company conducting?—A. Mining operations.

Q. Any other companies operating there at that time, in that vicinity?—A. Two or three, smaller.

Q. Was there an election held there early in November?—A. I believe that there was.

Q. On what date was that election held?—A. On the 5th of November, 1918.

Q. What was the condition of the camp with regard to closing down work and leaving?—A. Work was closed down and we had orders to leave. We were packing up to go out that morning.

Q. How many teams were leaving that morning with you, Mr. McDonald?—A. Five horses; single rigs.

Q. About how many men were going that way then, Mr. McDonald; do you remember?—A. As near as I can remember, there were 23 men.

Q. About how many men were employed by the Cache Creek Dredging Co. at that time?—A. Well, there must have been over 30 men, I guess.

Q. Do you know the number of votes that were cast at Cache Creek at that time?—A. No. I only heard.

Q. How many people were living there at that place in November?—A. You mean in the precinct?

Q. I mean there at Cache Creek where you were.—A. Only the people who worked there.

Q. How many others in the precinct, approximately, say?—A. Only two or three others, that I know of. Most of the people had left before that.

Q. Mr. McDonald, how early in the morning did you begin to pack up before leaving, as nearly as you can recollect?—A. At 4 o'clock I was out in the yard getting ready.

Q. Did you pack your sleds that morning?—A. Yes, sir.

Q. Did you have lights?—A. Yes.

Q. About what time did you have breakfast?—A. About 4 o'clock.

Q. Where was the election held?—A. In Jim Murray's cabin.

Q. Was Mr. Wheelock mistaken about its being held in the cook house?—A. Yes; I think he was.

Q. Where was Murray's cabin?—A. Right there close.

Q. Did you see any others vote, Mr. McDonald?—A. No, sir.

Q. I wish you would state the names of the persons who went out that way, who were leaving with you at that time, and state any of them that you know voted that morning.

Mr. PRICE. You have not stated any time.

Mr. THOMPSON. November 5.

A. Charles Irvin, Harry Kingsbury, Sept. Irvin, Joe —, Dave Lawrence, Fred Peleivor, Gerhart, Strom, Red McDonald, Mr. and Mrs. Wheelock (Mr. Wheelock left after we did but caught up), Al. Wolf, Chas. Herman, Davis, Brennem, McGroarty, Mattocks, Frank Magnolia, Dick Anderson, Mr. and Mrs. Archie Anderson, Frank Inglehorn, Dixon, and Whiting is all that I can remember.

Q. Did you leave together; that is, those you have mentioned?—A. All except Wheelock. He might have been 15 or 20 minutes behind us; as nearly as I can remember, we all pulled out together.

Q. What was the condition of the light when you left?—A. It was dark. Still burning lamps, lanterns; in Wheelocks lights still burning.

Q. How far is it from the camp to the dredge?—A. About a mile.

Q. Do you remember anything about the condition of the light?—A. Yes; I recollect that it was not so dark; as we passed the dredge it was breaking daylight; still I could not see the head team. There were three or four teams ahead of me.

Q. Did you notice the time when you left camp, Mr. McDonald?—A. Well, no; I didn't just when we left; trying to get away—just didn't notice.

Q. Did you notice the time any time before it got light?—A. Not after breakfast.

Q. Did you notice the time then?—A. I noticed the time when I went to breakfast.

Q. What time was it?—A. Ten minutes after 4.

Q. How long after that did you leave; do you recollect?—A. Not more than an hour.

Q. What was your reason for leaving so early?—A. It was a long ways before we could camp.

Q. What distance was it to the camping place?—A. About 20 miles to timber. We had two women and their children and a sick man, so we had to get away early.

Q. Who was cooking there at the camp?—A. Charles Irvin.

Q. Did you have any talk about leaving early that morning?—A. Yes, sir.

Q. What was it?—A. I asked him if we could have breakfast earlier that morning so that we could get away. He said yes, any time. He said he had put the clock ahead. His time was different from mine.

Q. How much difference was there between your times?—A. About two hours.

Q. Was your time running with the cook's time before that?—A. Yes, sir.

Q. What is your opinion as to the time you left, that is by the time you had been using?

Mr. PRICE. Objection. You are asking his opinion as to the time; it is not a proper question; if you ask if he knows the time it would be proper, but not for his opinion. I object.

Mr. THOMPSON. The witness has laid a proper foundation to enable him to express an opinion; he is especially qualified as an expert by his work with the company.

Mr. PRICE. I except to the decision.

Mr. THOMPSON. Go ahead Mr. McDonald, answer the question?

A. I think I can remember nearly. I am sure myself that it was not more than 5 o'clock. I do not think it was after 5 when we pulled out.

Q. What was the condition there in the early part of November when the day shift went to work?—A. I do not remember well enough to state. They had lanterns when they left—carried their lanterns along.

Q. What time did they go to work?—A. Seven o'clock.

Q. How long after you left to go to work would it come light, would you say?—A. I can not say that to be sure about it. I do not know about it.

Q. Did you carry a lantern when going to work?—A. No. I did not do that kind of work.

Q. What kind of work were you doing?—A. Driving team.

Q. It was light enough to see then?—A. Yes, sir.

Q. When you left that morning were lights burning in the camp?—A. Yes.

Q. Was there a light in Murray's cabin or not?—A. Yes, sir.

Q. Did you vote?—A. No, sir.

Q. For what reason?—A. There had been arguments about it and I thought it was illegal.

Q. With whom did you have arguments Mr. McDonald?—A. Mattocks.

Q. Before or after the election?—A. Before the election and after.

Q. On the morning of the election?—A. Before that; it had been talked over the night before.

Q. Were there any others present when you were having this talk?—A. I did not speak to any one but Harris. I said what are you going to do about this election?

Q. What did Harris say?—A. Harris said, "If they all want to vote we'll shove the clock ahead and make it time."



Q. Was Harris one of the judges of election?—A. I understand that he was. I was not in where they voted. He was appointed one.

Q. Was he interested in the company, Cache Creek Co.?—A. I understand that he was a shareholder.

Q. Was there any talk after you left; on the trail, Mr. McDonald?—A. I do not remember any.

Q. Are you a citizen?—A. I only have my first papers.

Mr. THOMPSON. I think that is all.

Mr. PRICE. You made the statement that you did not vote because you thought the election was illegal. Is it not a fact that you knew that you were not entitled to vote, not being a citizen?

The WITNESS. No. I thought I could vote, having my first papers.

Cross-question by Mr. PRICE.

Q. You thought you could vote on your first papers?—A. Yes, sir.

Q. Your statement that you left before 8 o'clock is an opinion?—A. No; I do not think it is an opinion. I know it.

Q. Your statement that you left at 5 o'clock—was that an opinion?—A. I did not say it was at 5 o'clock, but right close to 5. Right after breakfast I went out to get started—about 10 minutes after 4.

Q. You judge the time to do your work would not be more than to 5?—A. Yes.

Q. Do you know what time the polls opened?—A. No; I do not. I did not go in the polls.

Q. Do you know the names of any persons who claim that they went there and voted?—A. I know the names of four, said they voted.

Q. Do you know for a fact that they voted?—A. I did not see them vote.

Recross-question by Mr. THOMPSON.

Q. Who were the ones who claimed they voted, Mr. McDonald?—A. One I remember, Frank told me he voted.

Q. For whom did he vote?

Mr. PRICE. Objection.

Mr. THOMPSON. Objection overruled.

Mr. PRICE. Exception noted.

A. He said he voted for Sulzer. He said he was sorry he had done it; wished he had voted for Wickersham.

Q. Did he say why?—A. No, sir.

Q. What others do you know?—A. Wesley Adams.

Q. For whom did he vote?

Mr. PRICE. Objection.

Mr. THOMPSON. Overruled.

A. Wickersham.

Q. Who else?—A. Mattocks said he voted.

Q. Did he say for whom he voted?—A. No.

Q. Any one else?—A. That is all I can remember.

We do hereby agree to waive the signature of Malcolm (Red) McDonald to this, his deposition; he was duly sworn and testified under oath but is now out on the railroad at work and for that reason his signature is waived.

ARTHUR G. THOMPSON,  
Attorney for Contestant.

THOS. C. PRICE,  
Attorney for Contestee.

TERRITORY OF ALASKA,

Third Division, Knik Precinct, ss:

I hereby certify that Malcolm (Red) McDonald, the witness whose testimony appears in the foregoing deposition, appeared before me at the time and place in this deposition before stated, and after being first duly sworn by me to tell the truth in the above-entitled case, was then and there interrogated by me touching the matters at issue in said case, and was also interrogated by Thomas Price, the representative of George Grigsby, the substituted contestee, herein, and that the interrogatories propounded to said witness and the answers made by said witness to said interrogatories, together with the objections and exceptions of the representatives of the parties hereto, and the rulings thereon, are truly set forth in said deposition; that thereupon I caused said deposition to be taken and transcribed by Isabel Nelson, stenographer, and when completed, was read by the representatives of the parties to this cause, who then

stipulated to waive the signing of said deposition by said witness, which stipulation is attached hereto.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office, this 10th day of September, 1919, at Anchorage, Alaska.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for the Territory of Alaska,*  
*Residing at Anchorage.*

My commission expires May 6, 1922.

DEPOSITION OF MRS. C. W. MOSSMAN.

Taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, residing at Anchorage, at the office of said notary in Anchorage, Alaska, upon notice to George Grigsby, substituted contestee herein, at the convening of the continued hearing, on the 10th day of September, 1919.

The following persons being present: Arthur G. Thompson, notary public, appointed herein; Isabel Nelson, notaries' stenographer; Thomas Price, representing George Grigsby; Mrs. C. W. Mossman, witness; C. W. Mossman.

Mrs. Clarence Mossman was then called to the stand, and having taken oath, gave the following as her testimony herein:

By Mr. THOMPSON:

Q. Mrs. Mossman, how long have you been in the Territory?—A. I came in September, 1916.

Q. How long in Anchorage district?—A. I have been in Anchorage two years; it was September, 1917, I came here.

Q. Did you vote at the primary held here last spring, at which delegates to Congress were chosen?—A. No, sir.

Q. You did not vote at that election?—A. No; I did not.

Q. You had lived here for some time prior to your marriage?—A. Yes.

Q. When were you married to Mr. Mossman?—A. In May, 1918.

Q. Mrs. Mossman, where is your residence?—A. I suppose Anchorage is my residence.

Q. Did you vote at the election held last fall?—A. Yes, sir.

Q. Where did you vote?—A. In Valdez.

Cross-question by Mr. PRICE:

Q. How long were you in Valdez prior to the election?—A. I went there in September; five weeks at the time of the election. Left here September 26; arrived September 29.

Q. How long were you in Valdez before you came to Anchorage; was your home there before coming to Anchorage?—A. Yes; I came there in 1916, and to Anchorage in 1917.

Q. Had you been in Valdez 30 days prior to the election?—A. Yes; more than 30 days.

Redirect cross-question by Mr. THOMPSON:

Q. For whom did you vote at that election, Mrs. Mossman?

Mr. PRICE. Objection.

Mr. THOMPSON. Overruled.

Mr. PRICE. The witness need not answer. The right of franchise is protected perfectly by law; it is nobody's business for whom she voted.

Mr. THOMPSON to witness. Do you decline to answer?

Mrs. MOSSMAN. I do.

MRS. C. W. MOSSMAN.

Subscribed and sworn to before me this 11th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON, *Notary Public.*

My commission expires May 6, 1922.

This is to certify that Mrs. C. W. Mossman, the witness whose testimony appears in the foregoing deposition, appeared before me at the time and place in this deposition stated, and after being first duly sworn to tell the truth in the above-entitled case, was then and there interrogated by me and by Thomas Price, representing the substituted contestee, George Grigsby, touching the matters at issue in said case, and that the interrogatories propounded to said witness and that the answers given by said witness to said interrogatories are

set forth in said deposition, together with the objections of the representatives of the parties hereto, the rulings of the notary thereon, and the exceptions taken thereto; that I caused said deposition to be taken and transcribed by Isabel Nelson, stenographer, and when completed the same was read by the witness, and by him or her corrected; and that said witness then signed the same and upon oath swore that said deposition is true;

That said deposition was taken pursuant to adjournment of the hearings for the purpose of taking depositions on behalf of the contestant herein and to the attached stipulation.

In testimony whereof I have hereunto subscribed my name and affixed my official seal this 11th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for the Territory of Alaska,*  
*Residing at Anchorage.*

My commission expires May 6, 1922.

#### SUBPOENA.

*To C. W. Mossman, Mrs. C. W. Mossman, R. A. McCulloch, John Probst, and A. W. Walter, greeting:*

By reason of the authority vested in me by the laws of the United States and the Territory of Alaska and the notice to take testimony in the above-entitled case served by the contestant upon the contestee therein:

You are hereby required to be and appear before me at my office on the corner of Fourth and F Streets, in the town of Anchorage, Alaska, at the hour of 10 o'clock a. m., on Wednesday, the 3d day of September, 1919, then and there to testify in the above-entitled cause on oath, and true answers give to the questions that may be propounded to you, and if said testimony is not concluded on said day it will be continued from day to day until concluded, and therein fail not.

Given under my hand and the seal of my office this 30th day of August, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for Alaska,*  
*Residing at Anchorage.*

My commission expires May 6, 1922.

TERRITORY OF ALASKA, *Knik Precinct, ss:*

M. H. Lynch, being first duly sworn, on oath deposes and says: That he served the attached subpoena on John Probst, A. (Alvin) W. Walter, and Mrs. C. W. Mossman, in the town of Anchorage, Territory of Alaska, by leaving with and delivering to said persons, and each thereof, an original copy of said subpoena on the 2d day of September, 1919.

M. H. LYNCH.

Subscribed and sworn to before me this 11th day of September, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public.*

My commission expires May 6, 1922.

#### SUBPOENA.

*To Charles Irving, Harry Kingsberry, Red McDonald, Septimus Irvine, Charles McGarity, James Wheelock, and Mrs. James Wheelock, greeting:*

By reason of the authority vested in me by the laws of the United States and the Territory of Alaska and the notice to take testimony in the above-entitled case served by the contestant upon the contestee therein:

You are hereby required to be and appear before me at my office on the corner of Fourth and F Streets, in the town of Anchorage, Alaska, at the hour of 10 o'clock a. m., on Wednesday, the 3d day of September, 1919, then and there to testify in the above-entitled cause, on oath, and true answers give to the questions that may be propounded to you, and if said testimony is not concluded on said day it will be continued from day to day until concluded, and therein fail not.

Given under my hand and the seal of my office this 30th day of August, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
*Notary Public in and for Alaska,*  
*Residing at Anchorage.*

My commission expires May 8, 1922.

TERRITORY OF ALASKA.

*Knik Precinct, ss:*

M. H. Lynch, being first duly sworn, on oath deposes and says: That he served the attached subpoena on James Wheelock, and Mrs. James Wheelock, on the 30th day of October, 1919 and on Charles (Chas.) McGroarty on the 30th day of October, 1919, and on Malcom (Red) McDonald, on the 1st day of September, 1919, in Anchorage, in the Territory of Alaska, by leaving with and delivering to said persons, and each thereof, an original copy of the attached subpoena.

M. H. LYNCH.

Subscribed and sworn to before me this 11th day of September, 1919.

[SEAL.]

ARTHUR THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

To Charles A. Sulzer, contestee, George B. Grigsby, contestee, and to John A. Clark, his agent and attorney:

You are hereby notified that the depositions of Durwood M. Hocker and John E. Pegues, residents of the town of Fairbanks, Alaska, will be taken before Henry T. Ray, a notary public in and for Alaska, at his office on Second Avenue, next the Imperial Cigar Store, in the town of Fairbanks, Alaska, on the 5th day of September, 1919, at the hour of 10 o'clock a. m. of said day, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, to be read in evidence in the above-entitled proceeding, on behalf of said James Wickersham, contestant, and that the taking of said depositions will be continued from day to day thereafter, and over Sundays and legal holidays, if any, until the taking of the same shall have been completed.

You are requested to have your attorney or agent present at said examinations to cross-examine said witnesses.

Dated this 30th day of August, 1919, at Fairbanks, Alaska.

JAMES WICKERSHAM,  
Contestant.

By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 30th day of August, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestees.

SUBPOENA.

The President of the United States of America, Greeting; to Durwood M. Hocker:

You are hereby required, that, all and singular business and excuse being set aside, you appear and attend before the undersigned, Henry T. Ray, a notary public in and for the Territory of Alaska, at his office on Second Avenue, next the Imperial Cigar Store, in the town of Fairbanks, Alaska, on the 5th day of September, 1919, at the hour of 10 o'clock a. m. of said day, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, and if you refuse or neglect to attend and testify as above required, you will be subject to penalty and liable to indictment as prescribed by section 116, chapter 8, Revised Statutes of the United States, 1878.

Witness my hand and notarial seal this 30th day of August, 1919.

[SEAL.]

HENRY T. RAY,  
Notary Public in and for Alaska.

My commission expires June 7, 1920.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

Henry T. Ray, being first duly sworn, on oath deposes and says that he is a citizen of the United States, over the age of 21 years; that he served the hereto attached subpoena on Durwood M. Hocker, at Fairbanks, Alaska, on the 30th

day of August, 1919, by showing to said Durwood M. Hocker the original and delivering to him a true copy thereof.

HENRY T. RAY.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

MORTON E. STEVENS,  
Notary Public for Alaska.

My commission expires July 15, 1922.

SUBPŒNA.

*The President of the United States of America, Greeting to John E. Pegues:*

You are hereby required that, all and singular business and excuse being set aside, you appear and attend before the undersigned, Henry T. Ray, a notary public in and for the Territory of Alaska, at his office on Second Avenue, next the Imperial Cigar Store, in the town of Fairbanks, Alaska, on the 5th day of September, 1919, at the hour of 10 o'clock a. m. of said day, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, and if you refuse or neglect to attend and testify as above required you will be subject to penalty and liable to indictment as prescribed by section 116, chapter 8, Revised Statutes of the United States, 1878.

Witness my hand and notarial seal this 30th day of August, 1919.

[SEAL.]

HENRY T. RAY,  
Notary Public in and for Alaska.

My commission expires June 7, 1920.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

Henry T. Ray being first duly sworn, on oath deposes and says that he is a citizen of the United States, over the age of 21 years; that he served the hereto attached subpoena on John E. Pegues at Fairbanks, Alaska, on the 30th day of August, 1919, by showing to said John E. Pegues the original and delivering to him a true copy thereof.

HENRY T. RAY.

Subscribed and sworn to before me this 30th day of August, 1919.

[SEAL.]

MORTON E. STEVENS,  
Notary Public for Alaska.

My commission expires July 15, 1922.

Now, on this 5th day of September, 1919, pursuant to notice hereto attached, the testimony of Durwood M. Hocker and John E. Pegues was taken before me, Henry T. Ray, a notary public in and for Alaska, at my office in Fairbanks, Alaska, at the hour of 10 o'clock a. m. of said day.

DEPOSITION OF DURWOOD M. HOCKER.

DURWOOD M. HOCKER being first duly sworn, testified as follows:

Direct examination by Mr. STEVENS, attorney for contestant.

Q. State your name and age.—A. Durwood M. Hocker; age 25 years.

Q. What was your business or profession on November 5, 1918?—A. Cashier, telegraph office.

Q. Where were you stationed at that time?—A. Fairbanks, Alaska.

Q. Under whose direction did you act in such capacity?—A. Col. Lenoir, of Seattle.

Q. What position did he hold at that time?—A. Officer in charge of the system.

Q. What system?—A. Washington-Alaska Military Cable and Telegraph System.

Q. State whether or not, on November 5, 1918, you were a soldier in the United States Army.—A. I enlisted in the Signal Corps.

Q. That is part of the United States Army, is it not?—A. A branch.

Q. When did you enlist in said service?—A. July 24, 1914.

Q. Where did you so enlist?—A. At Columbus, Ohio.

Q. Where was your home at that time?—A. Owensboro, Ky.



Q. When did you arrive in Alaska after your so enlistment?—A. About August 24, 1914.

Q. Had you ever been in Alaska prior to that time?—A. Never.

Q. Was July 24, 1914, the date of your last enlistment in the United States Army?—A. The first and last.

Q. State where you were located after coming to Alaska and state about the length of time you remained at the several places.—A. St. Michaels about two weeks; between Melozi and Cokrines about two weeks; Fort Gibbon about two months; since December 5, 1914, in Fairbanks.

Q. Did you on November 5, 1918, vote at the election for Delegate to Congress from Alaska?—A. I did.

Q. Where did you so vote?—A. City hall, Fairbanks, Alaska.

Q. State for whom you voted for Delegate at said election?

Mr. JOHN A. CLARK (attorney for contestee). I object to the question, and instruct the witness that he does not have to answer the question and that he can not be required to disclose the name of any candidate he voted for.

Mr. STEVENS. Mr. Clark, will you please state the grounds of your objection?

Mr. CLARK. I have already stated the grounds of my objection, and as a matter of law the witness can not be required to give the information inquired for.

Mr. STEVENS. Mr. Clark, do you appear here as attorney for this witness as well as appearing for the contestee?

Mr. CLARK. The record shows who I appear for.

Q. Mr. Hocker, will you please answer the question that I have asked, as to whom you voted for for Delegate to Congress?—A. No.

Q. Please state why you refuse to do so.—A. Nobody's business but mine.

Q. Is it not true, Mr. Hocker, that you refuse to state for whom you voted for Delegate to Congress at the November, 1918, election, because it is in the interest of George B. Grigsby not to do so?

Mr. CLARK. I object to the question on the ground that it is insulting, and the witness has already stated his reasons for not answering the question.

A. It is not true.

Q. Is it not true that you refuse to answer the question in the interest of the Democratic party?

Mr. CLARK. I object, for the same reason set forth in my last objection.

A. It is not.

Q. Did you on and prior to November 5, 1918, class yourself as belonging to any political party?

Mr. CLARK. I object to the question on the ground that it is absolutely immaterial, and has no bearing upon the issues involved in this case, and instruct the witness that he does not have to answer the question unless he so desires.

A. I refuse to answer.

Q. Is it not true that on and prior to November 5, 1918, you took an active interest in Charles A. Sulzer's campaign as a candidate for delegate from Alaska?

Mr. CLARK. I object to the question, on the ground that it is absolutely immaterial, has no bearing on the issues involved herein, and instruct the witness that he does not have to answer the question unless he so desires.

A. I tell you, the only interest I took in it was a gambling interest—a betting proposition.

Q. Did you bet that Charles A. Sulzer would be elected?

Mr. CLARK. I object to the question on the ground that it is immaterial, and instruct the witness that he can not be compelled to incriminate himself.

A. I refuse to answer.

Q. What time of day, as near as you can state, did you vote for Delegate to Congress.

Mr. CLARK. Objected to in the grounds that it is immaterial.

A. I don't remember, I did not keep track of it.

Q. Is it not true that you bet on the Delegate election, prior to the time you voted?

Mr. CLARK. I instruct the witness that he does not have to answer, that he can not be required to incriminate himself.

A. Refuse to answer.

Q. I understand you to say that you did bet on the Delegate election of November 5, 1918, did you not so state?

Mr. CLARK. I object to the question on the ground that it is immaterial, and instruct the witness that he can not be compelled to answer the question, or to incriminate himself.

A. I made no such statement.

Q. What was the statement that you voluntarily made in regard to betting?

Mr. CLARK. I object to the question on the ground that it is immaterial, and the record shows what his answer was. And that he can not be required to answer any question as to whether or not he bet on the results of the election.

A. You got the statement down there that I made.

Q. Then as I understand, you refuse to make any further statement concerning your betting on said election?

Mr. CLARK. I object to the question, on the grounds that counsel misquotes the evidence.

A. I did not state I bet on the election.

Q. Please state what you meant, then, when you stated in substance that the only interest you took in this election was a gambling or betting interest?

Mr. CLARK. I instruct the witness that he does not have to answer the question; that it is absolutely immaterial.

A. Held stakes for a number of fellows.

Q. Is that all you did in regard to any bets on the result of the November 5, 1918, election?

Mr. CLARK. I instruct the witness that he does not have to answer.

A. I refuse to answer.

Q. Then you did not make any bets on your own account?

Mr. CLARK. I instruct the witness that he does not have to answer.

A. Refuse to answer.

Q. Mr. Hocker, is it not true that as a matter of public notoriety, you were on November 5, 1918, and for sometime prior thereto, taking an active part in said election in the interest of the candidacy of Charles A. Sulzer?

Mr. CLARK. I object on the grounds that it is immaterial, and instruct the witness that he does not have to answer.

A. Never took an active part in any election.

Q. Did you ever before this occasion make any secret of whom you supported for Delegate to Congress in the November, 1918, election?

Mr. CLARK. I object to the question on the ground it is immaterial, incoherent, and instruct the witness that he does not have to answer the question.

A. Refuse to answer.

Q. I desire to inform you that the question of the legality or illegality of your vote for Delegate to Congress at the November 5, 1918, election, has been raised by the pleadings in the contest which is now pending in the Sixty-sixth Congress of the United States. And that the law is that you can be compelled to testify concerning for whom you voted, if your vote was illegal. The testimony that you have given discloses that your vote was illegal. Now, I will again ask you, in view of this statement, whether you still refuse to state for whom you voted for Delegate at said election?

Mr. CLARK. Before the witness answers the question, I desire to state that the sole issue in this case as regards this witness, is whether or not as an enlisted man in the armed forces of the United States he was entitled to vote. And that he can not be compelled to disclose for whom he voted.

A. I certainly do.

Mr. STEVENS. That's all.

Cross-examination by Mr. CLARK:

Q. Mr. Hocker, for what period did you enlist?—A. Seven years; either three or four active service, rest of seven years in the reserve.

Q. Had your three years' active service expired before November 5, 1918?—

A. It expired July 24, 1917.

Q. You married in Alaska, did you not?—A. Yes.

Q. On November 5, 1918, where did you reside in Fairbanks?—A. Corner Sixth and Wickersham Streets.

Q. Did you own your own residence at that time?—A. Well, my wife did.

Q. Did you live on Government property?—A. I did not.

Q. How long had you lived in Fairbanks precinct before November 5, 1918?—

A. Since December 5, 1914.

Mr. CLARK. That's all.

Redirect examination by Mr. STEVENS:

Q. From the time of your enlistment up to and including November 5, 1918, there had been no change in your status as a soldier?—A. Yes; there was this change: After July 24, 1917, I drew reenlistment pay, being on the same status as a man who had reenlisted. That being the end of the period of my active service.

Q. You received an increase of pay, is that true?—A. I did.

Q. But you remained in the active service as a soldier in the United States Army up to and including the date of said election?—A. Owing to the declaration of war April, 1917, I was compelled to remain, but had not this war come on I would have been on the reserves.

DUEWOOD M. HOCKER.

Subscribed and sworn to before me this 5th day of September, 1919.

[SEAL.]

HENRY T. RAY,  
*Notary Public for Alaska.*

My commission expires June 7, 1920.

DEPOSITION OF JOHN E. PEGUES.

JOHN E. PEGUES, being first duly sworn, on oath testified as follows:

Q. State your name and age?—A. John E. Pegues, age 31 years.

Q. What was your business or profession on November 5, 1918?—A. Soldier in the United States Army.

Q. State when and where you first enlisted as a United States soldier.—A. September 21, 1912, at Fort Logan, Colo.

Q. Where was your home at that time?—A. Why, I had no fixed place of residence.

Q. Did you not give Oklahoma City, Okla., as your place of residence at that time?—A. That's the place from which I applied for enlistment.

Q. Had you ever been in Alaska prior to the time of your said first enlistment?—A. I had not.

Q. Where were you born?—A. Tupelo, Miss.

Q. Was your father a United States citizen?—A. Yes, sir.

Q. About how long did you live in Mississippi?—A. About 20 years.

Q. When did you first come to Alaska?—A. June, 1913.

Q. Were you in the service of the United States Army at that time?—A. I was.

Q. Had you been in the service of the United States Army at all times between the date of your said arrival up to and including November 5, 1918?—A. No. My first enlistment ended when I was enroute from Fairbanks to Fort Gibbon on September 21, 1915. The boat arrived in Fort Gibbon at least one day after expiration of my service, and I was not enlisted again until another day, making two days, in order to retain the grade which I held at that time, my second enlistment papers were dated back to meet Army regulations.

Q. How far back were the papers of your reenlistment dated?—A. Twenty-four hours.

Q. Then there was an interval of 24 hours between the date of the expiration of your first service and the date given you in your reenlistment papers?—A. That is my understanding.

Q. Are you able to state what place you designated as your residence at the time you so reenlisted?—A. I was not asked that for my place of residence, but in request as a married man, for permission to reenlist. I stated in a letter sent through military channels to the Chief Signal Officer of the United States Army that my home was in Fairbanks, at which place my family was then residing.

Q. Have you a copy of that letter?—A. Not with me, and I don't know whether I have it in my correspondence file or not. This fact has been reiterated by me on at least two different occasions since that time in expressing a desire to remain stationed in Fairbanks, Alaska, until such time arrived that I might obtain my release from the military service of the United States. These requests should be matters of record in the office of the officer in charge of the Washington-Alaska military cable and telegraph system, where copies, if not the originals, should be filed.

Q. Do you know when such letters were written?—A. I am unable to give the dates. I might explain that under former regulations the term of service in Alaska was limited to two years, but upon application by a soldier permission could be granted for applicants to remain for a longer period.

Q. How long did you remain in the service of the Army after your reenlistment?—A. About the middle of August, 1919.

Q. You were then discharged or released from service?—A. Yes.

Q. Did you, on November 5, 1918, vote at the election for Delegate to Congress from Alaska?—A. I did.

Q. Where did you so vote?—A. At Fairbanks, Alaska.

Q. State for whom you voted for Delegate at said election.

Mr. CLARK. I object to the question, on the ground that it is immaterial, and instruct the witness that he can not be compelled to answer the question.

A. I decline to answer.

Q. Why do you decline to answer?—A. I believe that my vote has the same right to protection as that of any other citizen.

Q. You understand that that would depend upon whether your vote was legal or illegal?

Mr. CLARK. I object to the question, on the ground that it is immaterial, a question of law, and the witness has already stated his reasons for refusing to answer as to whom he voted for.

A. It is my understanding that the attorney for the contestant has no authority to judge the legality or illegality of my vote.

Q. Is Mr. Clark acting as your attorney in this proceeding?—A. I have no attorney.

Q. Did Mr. Clark ever advise you that your vote for Delegate to Congress at said election was a legal vote?—A. I neglected to ask Mr. Clark's opinion on the subject.

Q. Did he volunteer an opinion?—A. Not to me, directly or indirectly.

Q. Did Mr. R. F. Roth, United States district attorney for this fourth judicial district, Alaska, ever render you an opinion as to whether or not the said vote was legal or illegal?

Mr. CLARK. I object on the ground that it is immaterial, and instruct the witness that he does not have to answer the question.

A. Mr. Roth at no time has advised me as to the status of my vote. But he did inform me of the qualifications necessary to entitle a resident of Alaska to the right to vote.

Q. Was that information verbal or in writing?

Mr. CLARK. Same objection and instruction.

A. He read me a chapter from the Alaska Session Laws, or Alaska Code, on this subject.

Q. He knew you were a soldier in the United States Army, did he not, at that time?

Mr. CLARK. Same objection and instruction.

A. I can not say what Mr. Roth knew.

Q. Was anything said by you or he on that occasion relative to your status as a soldier?

Mr. CLARK. I object and instruct the witness that he can not be required to answer any question along the line indicated by said question, on the ground that it is absolutely immaterial and incompetent.

A. Nothing was said about my personal status.

Q. Was the question of the right of soldiers in Alaska to vote in Alaska discussed or mentioned in your conversation with Mr. Roth?

Mr. CLARK. Same objection and instructions.

A. No; I merely asked for qualifications of the voter.

Q. Was that prior or after the November, 1918, elections?

Mr. CLARK. Same objection and instructions.

A. I can't give the exact date, but I think it was prior thereto.

Q. Are you the same John E. Pegues that voted at the election for Delegate to Congress from Alaska in the November 1916 election?

Mr. CLARK. I object on the grounds that it is immaterial, and I instruct witness that he need not answer the question.

A. I am.

Q. Did you vote for Charles A. Sulzer at that election?

Mr. CLARK. I object on the grounds that it is immaterial, and instruct the witness that he need not answer the question.

A. I decline to answer. For the reason given in my answer to question relative to the 1918 election.

Q. Are you aware that the House of Representatives of the 65th Congress of the United States, in passing upon the election contest of James Wickersham, contestant, against Charles A. Sulzer, contesting the delegate election from Alaska of November, 1916, cast your vote out as being illegal?

Mr. CLARK. I object on the ground that it is immaterial and not in accordance with the facts, and instruct the witness that he does not have to answer the question.

A. I can not be aware of something that did not happen.

Q. What business or profession are you now engaged in?—A. Newspaper business.

Q. What newspaper are you connected with?—A. The Alaska Citizen.

Q. That is a daily paper, is it not?—A. Daily and weekly.

Q. And published in Fairbanks, Alaska, or one of its suburbs, is that true?—A. Published at Fairbanks.

Q. In what capacity are you acting relative to the publication of said paper?

Mr. CLARK. I object to the question on the grounds that it is immaterial, and instruct the witness that he does not have to answer.

A. Editor and manager.

Q. You are interested in said newspaper beyond being an employee, are you not?

Mr. CLARK. I object to the question on the ground it is immaterial and impertinent, and the witness need not answer the question unless he so desires.

A. I decline to state, since my personal business can have no bearing in the present case.

Q. As editor and manager you control the political policy of said newspaper?

Mr. CLARK. I object on the ground it is immaterial, and the witness need not answer unless he so desires.

A. I decline to state.

Q. As editor and manager do you influence the political policy of said newspaper?

Mr. CLARK. Same objection and instruction.

A. I decline to state.

Q. How long have you been acting as editor and manager of said paper?—

Mr. CLARK. Same objection and instructions.

A. The proof can be found by consulting the files of the paper.

Q. Do you want this court to adjourn so you can go and consult the record or are you able to state from memory about how long you have served as editor and manager of said paper?

Mr. CLARK. I object, on the ground it is immaterial, and instruct the witness that he need not answer the question.

A. No answer.

Q. Did you contribute any editorial articles, or articles, or writing, to said Alaska Citizen, prior to November 5, 1918?

Mr. CLARK. I object, on the ground it is immaterial and instruct the witness he does not have to answer.

A. I decline to answer.

Q. Is it not true that the Alaska Citizen is Democratic in politics at the present time?

Mr. CLARK. I object on the grounds it is immaterial, a mere waste of time and instruct the witness that he need not answer any questions along this line.

A. I decline to answer.

Q. Is it not true that said Daily Citizen favored and supported the election of Charles A. Sulzer for Delegate to Congress for the election of November 5, 1918?

Mr. CLARK. Same objection and same instruction.

A. Same answer.

Q. Is it not true that you were connected with said Daily Citizen, and contributed to the editorial staff of said paper prior to November 5, 1918?

Mr. CLARK. Same objection and same instruction.

A. Same answer.

Q. Is it not true that prior to November 5, 1918 and up to the time you cast your vote at said election, that you were an active and earnest supporter of Charles A. Sulzer for Delegate to Congress from Alaska?

Mr. CLARK. Same objection and same instruction.

A. Same answer.



Q. State whether or not you made any bets or wagers, or any bet or wager, on the result, or as to the result of the election of November 5, 1918, as to any one or more candidates at said election.

Mr. CLARK. I instruct the witness that he need not answer the question.

A. I decline to answer.

Q. Is it not true that you came here to give your testimony with the predetermination not to disclose for whom you voted for Delegate to Congress in the election of November 5, 1918?

Mr. CLARK. I object on the ground that it is immaterial, impertinent, insulting, and instruct the witness that he does not have to answer at all.

A. I came here willingly to give testimony that might be required of me, reserving the same rights to the secrecy of my ballot that is given under the election law to any citizen.

Q. You thought it quite probable, did you not, that the question as to how you voted would be propounded to you?

Mr. CLARK. I instruct the witness that he does not have to answer.

A. I have no time to spend in idle speculation.

Q. Is it not true that as a result of conversations had between you and certain Democratic politicians, or Democratic workers, that you, among others, had determined not to disclose by your testimony for whom you voted at said Delegate election of 1918?

Mr. CLARK. I object on the ground that it is immaterial, and instruct the witness he need not answer.

A. It is not. I decide my own actions.

Q. You are politically opposed to James Wickersham, are you not?

Mr. CLARK. I object on the ground that it is immaterial and instruct the witness he need not answer.

A. My politics are my own.

Q. Please answer my question.

Mr. CLARK. I instruct the witness he does not have to.

A. I decline to state.

Q. You were politically opposed to James Wickersham on November 5, 1918, were you not?—A. I decline to state.

Q. Is it not true that prior to November 5, 1918, you were personally opposed to James Wickersham in your opinion of him?

Mr. CLARK. Same objection and instruction.

A. I decline to state.

Q. As a matter of fact, Mr. Pegues, you are a Democrat, and have been such for a considerable time last past; is that not true?

Mr. CLARK. I object on the ground it is immaterial; it is nobody's business.

A. I decline to state.

Q. Is it not true that you are regarded in the community generally, and as a matter of notoriety in this community, as a Democrat?

Mr. CLARK. I object on the ground it is immaterial and instruct the witness he need not answer.

A. I decline to state.

Q. Did you ever before this occasion refuse to indicate your general political views?

Mr. CLARK. I object on the ground it is immaterial and instruct the witness he need not answer.

A. I decline to state.

Mr. STEVENS. That's all.

Cross-examination by Mr. CLARK:

Q. Mr. Pegues, on November 5, 1918, were you living in Fairbanks with your family?—A. I was.

Q. How long had you lived in Fairbanks prior to that time?—A. Since July, 1914.

Q. Who owned the property occupied by you as a residence?—A. I did.

Q. How long had you owned it?—A. Why, that home I had purchased less than a year previous.

Mr. CLARK. That's all.

JOHN E. PEGUES.

Subscribed and sworn to before me this 5th day of September, 1919.

[SEAL.]

HENRY T. RAY,  
Notary Public for Alaska.

My commission expires June 7, 1920.

To Charles A. Sulzer, contestee, George B. Grigsby, contestee, and to John A. Clark, his agent and attorney:

You are hereby notified that the deposition of Henry T. Ray, a resident of Fairbanks, Alaska, will be taken before Guy B. Erwin, a notary public in and for Alaska, at his office in the Red Cross Building, on Cushman Street in the town of Fairbanks, Alaska, at the hour of 10 o'clock a. m., on the 6th day of September, 1919, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, to be read in evidence in the above-entitled proceeding on behalf of said James Wickersham, contestant, and that at the taking of said deposition you are requested to have your agent or attorney present to cross-examine said witness if he so desires.

Dated at Fairbanks, Alaska, this 30th day of August, 1919.

JAMES WICKERSHAM,  
Contestant.

By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 30th day of August, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestee.

Now, on this 6th day of September, 1919, pursuant to notice attached, the testimony of Henry T. Ray was taken before me, Guy B. Erwin, a notary public in and for Alaska, at my office in Fairbanks, Alaska, at the hour of 10 o'clock a. m. of said day, James Wickersham, the contestant, being represented by Morton E. Stevens, his attorney, and having waited from said hour of 10 o'clock a. m. to 10.30 o'clock a. m., and no one having appeared to represent either the said Charles A. Sulzer, contestee, or George E. Grigsby, contestee, the following proceedings were then had, to wit:

#### DEPOSITION OF HENRY T. RAY.

HENRY T. RAY, being first duly sworn by said notary public, testified as follows:

Direct examination by Mr. STEVENS:

Q. State your name and age.—A. Henry T. Ray; age, 58 years.

Q. Where do you reside?—A. Fairbanks, Alaska.

Q. How long have you resided continuously in Fairbanks, Alaska?—A. Since September, 1904.

Q. What official position, if any, have you held since being a resident of Fairbanks, Alaska?—A. Deputy recorder, Fairbanks precinct, for over four years; held the office of townsite trustee for the town of Fairbanks for about 10 years last past; served as councilman of the town of Fairbanks for one year and as mayor of the town of Fairbanks for one year; member of local board No. 17 under the selective-service law during the war, and a member of Fairbanks branch of the Council of Defense during the war.

Q. State whether or not you have been representing the political interests of James Wickersham in the fourth judicial division of Alaska and particularly in the vicinity of Fairbanks for a number of years last past in connection with his candidacy for Delegate to Congress from Alaska?—A. I have.

Q. For about how long?—A. For the past seven years.

Q. State if you received by United States mail from Judge Wickersham a copy of House resolution No. 105, signed by the clerk of the House of Representatives.—A. I did; about the 20th of August, 1919.

Q. Did you at once communicate or consult me as attorney for contestant herein concerning said resolution No. 105?—A. I did immediately upon receiving same.

Q. State what, if anything, you assumed would occur regarding the assembling of the 40 soldiers referred to in said resolution, upon the part of the War Department?—A. I assumed the men would be assembled at the places designated within plenty of time so they could be properly examined, and I immediately made inquiry at the telegraph office, Fairbanks, whether the men stationed here had been notified as required by the resolution No. 105, and they informed me that they knew nothing about it, Durwood M. Hocker and E. D.

Whittle, soldiers stationed at Fairbanks, Alaska, being two of the men of whom I made inquiry, and being also two of the men who were to be assembled under said resolution.

Q. What did you then do, if anything, to secure the testimony of these 40 soldiers?—A. I consulted Mr. Stevens, attorney for Judge Wickersham, contestant, and on the 25th of August, 1919, we prepared a written notice addressed to J. E. McLouth, operator in charge of the Fairbanks Signal Corps office, calling his attention to resolution No. 105 and quoting paragraphs 9 and 10 therefrom in full, and informing him that the time for taking testimony on behalf of the contestant, Wickersham, would expire on September 6, 1919, requesting him to have the date fixed for assembling the men at Fairbanks, who were to be assembled there so we could give the contestee or his representative notice to be present. Said notice also contained the list of the 40 names referred to in said resolution. Mr. McLouth informed me that he knew nothing of the matter, was not an officer, and had no authority to act in the premises. I offered to serve said notice upon Mr. McLouth and he looked at it and stated he had no authority and knew nothing about the matter.

Q. He was at said time in charge of the Fairbanks Signal Corps office, was he not?—A. He was.

Q. What did you next do, if anything, regarding this matter?—A. I sent a telegram which I had prepared by Mr. Stevens, Wickersham's attorney, to Lieut. Col. Lewis at Fort Gibbon, Alaska, the officer in charge of the Signal Corps men in the fourth division of Alaska, which telegram is as follows:

“ FAIRBANKS, ALASKA, August 28, 1919.

“ Lieut. Col. LEWIS.

“ *Signal Officer, Fort Gibbon, Alaska:*

“Assuming you are familiar with provisions House resolution 105, passed by House Representatives July 28 last, relating to contest Wickersham against Sulzer and Grigsby for Delegate from Alaska, I respectfully request that all soldiers named in list described in said resolution be assembled at Fairbanks to testify on behalf of Wickersham in said case, except those who are to be assembled at Sitka or Valdez. Please fix time and advise me promptly. September 6 is our last day. Depositions should be completed before. Would suggest September 2 and following days for said depositions.

“ JAMES WICKERSHAM,

“ By MORTON E. STEVENS,

“ *His Attorney.*”

Q. Is the paper which I hand you a true copy of said telegram?—A. Yes.

Q. Is it possible to obtain the original at this time?—A. No, sir. I am informed that an original telegram can not be obtained from the Signal Corps office without an order of the court, which order can not be obtained, owing to the absence of the court from this judicial division.

Mr. STEVENS. We offer in evidence said copy of said telegram and ask that it be marked “Contestant's Exhibit A,” as a part of this proceeding.

(Copy of telegram received and marked “Exhibit A.”)

Q. What answer was received, if any, to said telegram?—A. Mr. Stevens received in my presence the following answer:

“ FORT GIBBON, August 26, 1919.

“ MORTON E. STEVENS,

“ *Fairbanks:*

“Not familiar with House resolution 105. No copy here. Request names of men mentioned in list and what is authority for sending them Fairbanks. Taking men away would cripple system.

“ LEWIS.”

This telegram was received on August 27, 1919.

Q. Is the one you have in your hand the original?—A. It is.

Mr. STEVENS. Contestant offers in evidence said telegram and requests the same to be marked “Contestant's Exhibit B.”

(Copy telegram received and marked “Exhibit B.”)

Q. State what you then did.—A. I then sent the following telegram to Col. Lewis, which telegram is signed by Mr. Stevens, attorney, on August 27, 1919, wiring him full information regarding said resolution and the list of names, also informing him that I had delivered said resolution and Congressional Record relating thereto to the officer in charge of the Signal Corps at Fairbanks.

Q. Is the paper you have in your hand a duplicate copy of said telegram?—

A. It is a duplicate or carbon copy.

Q. Signed as indicated?—A. Yes.

Mr. STEVENS. Contestant offers in evidence said copy of telegram and requests that it be marked "Contestant's Exhibit C."

(Copy telegram received and marked "Exhibit C.")

Q. State what the paper is that I now hand you.—A. This is a carbon copy of the communication which I delivered to J. E. McLouth, officer in charge at Fairbanks Signal Corps office on August 27, 1919, signed as indicated, James Wickersham, by Morton E. Stevens, his attorney, inclosing said resolution and accompanied by congressional pamphlet containing the hearings on said resolution before the Committee on Elections No. 3 in the House of Representatives, Sixty-sixth Congress, first session.

Mr. STEVENS. Contestant offers in evidence said communication copy and asks that it be marked "Contestant's Exhibit D."

(Paper received and marked "Exhibit D.")

Q. State what this paper is that I now hand you?—A. This is the answer received by Mr. Stevens in my presence from Col. Lewis to his wire of August 27, 1919, and was received on the 28th of August, 1919.

Mr. STEVENS. Contestant offers in evidence said telegram and asks that it be marked "Contestant's Exhibit E."

(Telegram received and marked "Exhibit E.")

Q. What did you next do to obtain the testimony of the said 40 soldiers?—

A. I notified Judge Wickersham of the conditions as I then found them. I also sent Col. Lewis, of Fort Gibbon, another telegram September 1, 1919.

Q. Have you in your hand a true copy of such telegram?—A. I have.

Mr. STEVENS. Contestant offers in evidence said copy of telegram and asks that it be marked "Contestant's Exhibit F."

(Telegram received and marked "Exhibit F.")

Q. What other steps, if any, did you take September 1, 1919, to obtain depositions of soldiers at Fort Gibbon?—A. Learning that J. C. Dehn, United States commissioner at Tanana, is the only notary public there before whom deposition could be taken, I sent him, September 1, 1919, a wire containing direct and cross-interrogatories and requested that he take the testimony of the four soldiers located at Fort Gibbon. This is a carbon copy of said telegram, which was signed as indicated.

Mr. STEVENS. Contestant offers said copy of said telegram in evidence and asks that it be marked as "Contestant's Exhibit G."

(Copy of telegram received and marked "Exhibit G.")

Q. What did you do by way of an effort to obtain testimony of said soldiers located at Nulatto, Alaska?—A. Learning that there was no notary or other officer at Nulatto who could administer an oath or take depositions, excepting the postmaster stationed there, upon advice of counsel and believing that said postmaster would have authority to take the same, I sent him a telegram, September 1, 1919, containing a request similar to the one I sent to the notary at Tanana, Alaska, a carbon copy of which I hold in my hand, signed as indicated.

Mr. STEVENS. Contestant now offers in evidence said copy of said telegram, and requests that same be marked "Contestant's Exhibit H."

(Copy telegram received and marked "Exhibit H.")

Q. State any other action taken in this matter.—A. In answer to telegram sent to notary at Tanana, Mr. Stevens received, on September 2, 1919, in my presence, a telegram which I now have.

Q. Is this the one?—A. It is.

Mr. STEVENS. Contestant offers in evidence said telegram and asks that the same be marked "Exhibit I."

(Telegram received and marked "Exhibit I.")

(Answer continued.) I then sent a telegram, signed James Wickersham, by Morton E. Stevens, his attorney, and signed by John A. Clark, attorney for George Grigsby, to J. C. Dehn, Tanana, Alaska, September 2, 1919, a carbon copy of which I now hold in my hand.

Mr. STEVENS. Contestant offers in evidence said carbon copy and asks that it be marked "Contestant's Exhibit J."

(Copy telegram received and marked "Exhibit J.")

(Answer continued.) Morton E. Stevens, in my presence, on September 3, 1919, received an answer from the postmaster at Nulatto, Alaska, which telegram I now have in my hand.

Mr. STEVENS. Contestant now offers said telegram and asks that it be marked "Exhibit K."

(Telegram received and marked "Exhibit K.")

Q. Did you receive or did we receive any answers from Col. Lewis to the wire introduced here as Exhibit F?—A. Not having received any answer on September 4, 1919, I sent a wire to Col. Lewis, a carbon copy which I hold in my hand, which wire was signed as indicated on the copy.

Mr. STEVENS. Contestant offers said carbon copy and asks that it be marked "Contestant's Exhibit L."

(Copy telegram received and marked "Exhibit L.")

Q. Did Col. Lewis answer the last-described telegram sent to him?—A. He did, on September 5, which I now have.

Mr. STEVENS. Contestant offers in evidence said telegram and asks that it be marked "Contestant's Exhibit M."

(Telegram received and marked "Exhibit M.")

Q. State any other efforts you made to get the testimony of soldiers referred to in said House resolution No. 105.—A. On September 4, 1919, I sent a telegram to A. J. Griffin, a notary public at Richardson, Alaska, requesting him to take the deposition of Herman B. Stenbuck, which telegram I now hold in my hand, or rather a carbon copy thereof.

Mr. STEVENS. Contestant offers in evidence said carbon copy and asks that it be marked "Contestant's Exhibit N."

(Copy telegram received and marked "Exhibit N.")

Q. Did you send to A. J. Griffin, Richardson, Alaska, by mail, instructions containing direct and cross-interrogatories for the deposition of said Stenbuck?—A. I did, on September 5, 1919. This mail will undoubtedly reach Mr. Griffin in time to take said deposition.

Q. State who signed the cross-interrogatories which you sent.—A. I sent the typewritten cross-interrogatories which John A. Clark, as attorney for George B. Grigsby, prepared and delivered to be for the purpose of taking the deposition of said Stenbuck.

(Hearing adjourned until 2 o'clock p. m. this day.)

(Hearing resumed at 2 o'clock p. m. this day.)

Mr. STEVENS. The testimony of United States soldiers E. D. Whittle, Durwood M. Hocker, and John E. Pegues has been taken in this proceeding upon behalf of contestant herein at Fairbanks. Please state whether these are the only soldiers referred to in said House resolution No. 105 which we were able to take at Fairbanks.—A. Yes; that is correct.

Q. State whether these soldiers were the only ones between Nulato and Richardson, inclusive, that we were able to examine directly and thoroughly in this contest case upon behalf of contestant.—A. Yes; they were.

Q. State whether or not this condition was due solely to the neglect or failure upon the part of the War Department to assemble these men in accordance with said resolution No. 105.—A. Yes, it was, as far as I know.

Q. State whether prior to the year 1918 you ever called attention to any illegal voting or supposed illegal voting in this judicial division to any of the Federal authorities of this division?—A. Yes; I did.

Q. State what occurred.—A. On March 12, 1918, I sent a communication in writing to District Attorney R. F. Roth, of Fairbanks, Alaska, calling his attention that I had been informed that at the 1916 election for Delegate to Congress more or less illegal voting took place at Nenana, Alaska, and cited specifically that Florence E. Cramer and Rene Riggs had voted at the 1916 election aforesaid illegally. I have a carbon copy of the letter now in my possession, and I haven't seen the original since I sent it or delivered it to Mr. Roth in March, 1918.

Q. Is the paper that you now hold in your hand a true carbon copy of the original?—A. It is.

Mr. STEVENS. Contestant offers in evidence said carbon copy of said letter and asks that the same be marked "Contestant's Exhibit O."

(Copy letter received and marked "Exhibit O.")

Q. Can you further identify the two ladies mentioned in this letter?—A. Yes: they were the wives of G. Fenton Cramer and Thomas Riggs, jr., now governor of Alaska. Gov. Riggs was a member of the Alaska engineering commission, and Cramer was his secretary, and I am informed that Cramer is now secretary to Gov. Riggs at Juneau, Alaska.

Q. On what grounds were you informed that these persons were not legal voters?—A. On the grounds that they were not residents of Alaska for one year



as required by law, they having come to Alaska in June, 1916, and voted at the election in November, 1916.

Q. Did you communicate that fact to United States District Attorney Roth?—

A. I don't remember.

Q. State whether or not any prosecution ever occurred by reason of either of these persons voting at said election?—A. No; there was not.

Q. Was there ever an investigation of any kind had upon the part of any of the Federal officials concerning the same, so far as you know?—A. After this communication was sent to Mr. Roth, Hon. Charles E. Bunnell, district judge for this fourth judicial division, Alaska, talked with me concerning the matter, and called my attention to certain section of the Session Laws of Alaska concerning the qualifications of women voters, but nothing further was ever done in the matter so far as I know.

Q. Did you ever call to the attention of the district attorney for this division any violation of the election law upon the part of certain persons voting illegally at the delegate election in Alaska held November 5, 1918?—A. I did.

Q. Go ahead and state what voters were referred to or what illegal votes were involved and state all you did in the matter?—A. About March 26, 1919, I sent a written communication to the grand jury, then in session at Fairbanks, Alaska, requesting that the grand jury investigate the alleged illegal voting of Durwood M. Hocker, John E. Pegues, H. B. Stenbuck, and E. D. Whittle, who were at the date of said election regular enlisted men in the United States Army, having enlisted elsewhere than in Alaska. I have no copy of the communication and, of course, I don't have the original, and I do not know where it is; I was shortly afterwards informed that the grand jury would take no action in the matter and that it should come through the district attorney's office. I then went to the district attorney and asked him what steps were necessary for me to take to bring the matter properly before the grand jury for investigation. He informed me that I must lodge a complaint with the district attorney, who would investigate, and if he found sufficient grounds for prosecution, the matter would be taken care of regularly. I then and there made verbal complaint and charged the men with illegal voting and requested the district attorney to prosecute them. He then and there stated that he would investigate the matter and let me know what action he would take. Mr. Roth, the district attorney, afterwards informed me that, in his opinion, none of the four men mentioned had voted illegally, and that therefore he could not prosecute. Nothing further has been done in the matter so far as I know.

Q. State the nature of your acquaintance with these four soldiers above referred to prior to November 5, 1918, and on that date, and thereafter.—A. I knew them very well and had frequent conversations with them, particularly on political matters, we often discussed the candidates for Delegate. They knew I represented and supported James Wickersham, while they all supported Sulzer.

Q. Did you have any conversation with any of these four soldiers on November 5, 1918, the day of election?—A. I did.

Q. State with whom you had such conversations, who were present, as near as you can remember, where such conversation occurred, and the substance thereof, as near as you can.—A. During the day of election, November 5, I had occasion to frequently go to the telegraph office on business, when always one or more of them were present. In the evening, shortly before the closing of the polls, I was in the telegraph office when Hocker, Whittle, and Stenbuck were present, Hocker stating to me, in the course of conversation, in substance that "We will skin you in this election; "Everything on the coast is going 2 to 1 for Sulzer." One of them, I think Hocker, offered to bet me that Sulzer would be elected. Some time during the day Hocker also stated to me, saying, "We won't vote at this election; we know we have a perfect right to, but we don't want to get mixed up in it." I refused to bet, and Whittle then asked me if I knew of any Wickersham money; that he had \$75 he wanted to get up very bad. I informed him that I was returning to Republican headquarters on Front Street, and if I heard of anyone there having any money to bet I would let them know. After leaving the telegraph office I went up to the city hall, where the polls were, and within a few minutes after my arrival Whittle and Stenbuck came in to vote. I challenged their vote, and while taking the challenge oath Hocker also came in to vote. I also challenged his vote. They all swore in their vote and were given ballots, and they voted. This was just prior to closing the polls, and Hocker was the last man who voted at Fairbanks voting precinct at the November 5, 1918, election.

Q. Do you know whether or not this man Hocker made any bet or bets on the result of the Delegate election for Alaska of November 5, 1918?—A. Yes; I do.

Q. Please state the facts.—A. He made a bet of \$5 that Sulzer would be elected, and I held the stakes.

Q. Did Hocker make this bet on Sulzer prior to the time that Mr. Hocker cast his vote on November 5, 1918?—A. Some weeks prior thereto.

Q. Did the bet remain up until after the election?—A. Yes.

Q. Do you know of any other bet having been made on Sulzer's election by any of these four soldiers we are talking about, on election day or prior thereto? If so, state the facts as far as you know.—A. Only by what they themselves told me at different times, offering to bet me, and stating to me on the evening of election that they had a considerable sum of money up on Sulzer.

Q. Who stated that, and who were present, as near as you remember?—A. I am unable to state what particular person was speaking or who was present, and this occurred practically every time I went to the telegraph office on election day and evening. I am satisfied, from conversations had with them on different occasions, that all of them had money bet on Sulzer.

Q. Do you know whether John E. Pegues, one of said soldiers, did any campaign work for Charles A. Sulzer prior to November 5, 1918?—A. Yes. He was writing editorials for the Alaska Citizen on behalf of Sulzer's candidacy and in opposition to Wickersham's candidacy.

Q. Did the Alaska Citizen support Mr. Sulzer's candidacy prior to the November, 1918, election?—A. Yes; they did.

Q. Did that paper oppose the candidacy of James Wickersham?—A. Yes; it did.

Q. Was the Daily Alaska Citizen, the paper you speak of, Democratic in politics in the Delegate campaign of 1918?—A. Yes; both the daily and weekly.

Q. Had it been a Democratic paper for a long time prior thereto?—A. Yes; it had always been a Democratic paper.

Q. Is that paper still known in this community as a Democratic paper?—A. It is.

Q. About how long prior to the election of 1918, November 5, had Mr. Pegues been writing editorials for said Alaska Citizen?—A. He was connected with the paper and writing for it for several years, and writing editorials for at least six months prior to the November, 1918, election.

Q. How do you know that this is a fact?—A. From his statements made to me at different times, that he was employed on the Citizen.

Q. Mr. Ray, state whether or not that on and prior to the Delegate election of November 5, 1918, it was a common and notorious fact in Fairbanks, Alaska, that the Signal Corps boys stationed in Fairbanks were openly and actively supporting Charles A. Sulzer for delegate to Congress, and in opposition to James Wickersham's candidacy for such office?—A. Yes; it was a matter of general notoriety so far as these four soldiers were concerned, and they made no secret of it.

Q. Did you have any conversation with Mr. Hocker after the election of November 5, 1918, concerning Mr. Hocker's vote at said election? If so, state when and where the conversation occurred, and the substance thereof?—A. I did. To the best of my recollection, during the past winter in the telegraph office at Fairbanks Mr. Hocker, in substance, told me while discussing the soldier vote in Alaska: "Why didn't they make the report of the elections committee under the 1916 contest public before the 1918 election? If I had known the soldier vote was thrown out I would not have voted." He also said: "If I get into trouble over my vote some of these Federal officials had better take to the tall timber." He also said that he voted on Roth's advice.

Q. Mr. Ray, after having received the telegram from Col. Lewis dated August 27, 1919, and heretofore introduced in evidence and marked "Contestant's Exhibit E," did Col. Lewis send and did we receive his further answer dated August 30, 1918, which I now hand you?—A. Yes; this telegram was received by Mr. Stevens in my presence on August 30, 1919.

Mr. STEVENS. Contestant offers in evidence said telegram of August 30, 1919, and asks the same to be marked "Contestant's Exhibit P."

(Telegram received and marked "Exhibit P.")

Q. At the time that the depositions of Durwood M. Hocker and John E. Pegues were taken before you, as a notary public for Alaska, on or about Sep-

tember 5, 1919, which depositions were taken upon behalf of James Wickersham, contestant, in this same election contest case, wherein I appeared on behalf of said contestant and John A. Clark appeared as attorney for George B. Grigsby, and wherein said witnesses, upon the advice of said Mr. Clark or on their own account, refused to answer many questions propounded by me, you may please state whether or not there was any judge of any court of record or any judge of any court of general jurisdiction within the boundaries of the fourth judicial division of Alaska to whom contestant could apply to compel said witnesses to answer said questions or any of them.—A. There was not; Judge Charles E. Bunnell, the judge of the only court of record or general jurisdiction in this division, was at that time either in Valdez, Alaska, or on his way from Valdez to Seward, Alaska, to hold court in the third division.

HENRY T. RAY.

Subscribed and sworn to before me at Fairbanks, Alaska, this 6th day of September, 1919.

[SEAL.]

GUY B. ERWIN,  
Notary Public for Alaska.

My commission expires March 13, 1921.

UNITED STATES OF AMERICA,  
Territory of Alaska, Fourth Division, ss:

I, Guy B. Erwin, a notary public in and for the Territory of Alaska, duly commissioned and sworn, do hereby certify that pursuant to the notice of taking deposition hereto attached, on this 6th day of September, 1919, personally appeared before me Henry T. Ray, the witness therein named, who being first duly sworn on oath gave testimony in said matter, that the foregoing 11 pages of typewritten matter, inclusive of this page, contain a full, true, and correct transcript of the proceedings had before me in the election contest case of James Wickersham, contestant, v. Charles A. Sulzer, contestee, and George B. Grigsby, contestee, now pending in the House of Representatives of the United States, Sixty-sixth Congress, and of the whole thereof. I further certify that the exhibits hereto attached, lettered A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, and P, respectively, are the exhibits mentioned and referred to in the foregoing deposition and indorsed and marked by me for identification.

Witness my hand and notarial seal at Fairbanks, Alaska, this 6th day of September, 1919.

[SEAL.]

GUY B. ERWIN,  
Notary Public for Alaska.

My commission expires March 13, 1921.

#### CONTESTANT'S EXHIBIT A.

FAIRBANKS, ALASKA, August 25, 1919.

Lieut. Col. LEWIS,

Signal Officer, Fort Gibbon, Alaska:

Assuming you are familiar with provisions House resolution 105 passed by House Representatives July 28 last relating to contest Wickersham against Sulzer and Grigsby for Delegate from Alaska, I respectfully request that all soldiers named in list described in said resolution be assembled at Fairbanks to testify on behalf Wickersham in said case except those who are to be assembled at Sitka or Valdez. Please fix time and advise me promptly. September 6 is our last day. Depositions should be completed before. Would suggest September 2 and following days for said depositions.

JAMES WICKERSHAM.  
By MORTON E. STEVENS.  
His Attorney.

#### CONTESTANT'S EXHIBIT B.

FORT GIBBON, ALASKA, August 26, 1919.

MORTON E. STEVENS, Fairbanks:

Not familiar with House Resolution 105. No copy here. Request names of men mentioned in list and what is authority for sending them Fairbanks. Taking men away would cripple system.

LEWIS.

CONTESTANT'S EXHIBIT C.

FAIRBANKS, ALASKA, August 27, 1919.

Lieut. Col. LEWIS,  
Signal Officer, Fort Gibbon, Alaska:

House Resolution 105 provides, among other things:

" (9) That the Secretary of War be, and he is hereby, requested to order by telegraph immediately on passage of this resolution that the 40 soldiers named and whose Army status is described in the certified list, dated June 11, 1919, signed by the War Department officials, and which list is attached to the application of contestant for the passage of this resolution, be assembled at the office of the commanding officer of the United States military cable and telegraph in the towns of Valdez, Sitka, and Fairbanks, Alaska, within the 40 days' period for taking testimony by the contestant, then to be examined under oath by contestant or his attorney or agent, touching the matters and things alleged in the notice and statement of contest on file in this House, and in this cause.

" (10) The testimony of all witnesses shall be reduced to writing, signed by the witness, verified, and returned to the Clerk of the House of Representatives for use in these causes in the manner provided in the laws of the United States relating to contested elections as modified by this resolution."

The names of persons contained in list referred to in said resolution 105 are Charles A. Agnetti, William T. Barr, Ike A. Beal, Edward E. Beattie, James W. Boon, James M. Campbell, Howard G. Clifton, Harvey B. Conover, Ralph N. Cummins, William J. Cuthbert, Herman Demerce, James A. Ellison, Rudolph Elmquist, Max H. Faust (captain), Thomas F. Griffith, Guy B. Hawley, Durwood M. Hocker, Alex A. Kott, Leo Kraft, Emil Lains, James P. Lake, Dr. W. E. Leonard, Phil F. McQuillan, Horace R. Morgan, James W. McConnell, Richard H. L. Noaks, Charles R. Odle, John E. Pegues, William R. Rogers, Robert L. Scearce, Louis G. Selk, Harry Shutts, Burr M. Snyder, Herman B. Stenbuck, Clement C. Stroupe, Donald H. Tyer, Harlan Van Wyck, Howard G. Wescott, Elmer D. Whittle, Horace W. Whitman.

I have delivered to officer in charge Fairbanks office resolution 105 and Congressional Records relating thereto, being afraid too late to mail same to you.

JAMES WICKERSHAM,  
By MORTON E. STEVENS,  
His Attorney.

CONTESTANT'S EXHIBIT D.

FAIRBANKS, August 27, 1919.

To J. E. McLOUTH,  
M. S. E., Officer in Charge United States Signal Corps,  
Fairbanks, Alaska.

SIR: I inclose you herein House resolution 105, passed by the House of Representatives July 28, 1919, which provides, among other things, as follows:

" (9) That the Secretary of War be, and he is hereby, requested to order by telegraph immediately on the passage of this resolution that the 40 soldiers named and whose Army status is described in the certified list, dated June 11, 1919, signed by the War Department officials, and which list is attached to the application of contestant for the passage of this resolution, be assembled at the office of the commanding officer of the United States military cable and telegraph in the towns of Valdez, Sitka, and Fairbanks, Alaska, within the 40 days' period for taking testimony by the contestant, then to be examined under oath by contestant or his attorney or agent, touching he matters and things alleged in the notice and statement of contest on file in this House, and in this cause.

" (10) The testimony of all witnesses shall be reduced to writing, signed by the witness, verified, and returned to the Clerk of the House of Representatives for use in these causes in the manner provided in the laws of the United States relating to contested elections as modified by this resolution."

I also inclose you herein Congressional Record containing hearings before Committee on Elections No. 3 in the contested-election case of Wickersham v. Sulzer, and particularly relating to House resolution 105, held July 11 to 22, inclusive, 1919. I call your attention to the fact that the list of names con-

tained on page 8 of said hearing is the same list referred to in said resolution 105.

Page 7 of said hearing contains the certificates of the War Department officials concerning said list of names.

The object of delivering these documents to you at this time is to aid the department in carrying out the requirements of this resolution promptly. I therefore respectfully request that you advise, by wire, the proper authorities that I have delivered the same to you for said purpose.

The commanding officer at Fort Gibbon has requested from me, and has been furnished, by wire, this list, together with quotations as above from said resolution, he having advised me by wire of this date that he is not familiar with said resolution, and I have this day wired him that I have delivered to you these documents. I would be pleased if you advise the commanding officer at Fort Gibbon, or other proper authority, of the receipt by you of these documents.

Respectfully,

JAMES WICKERSHAM,  
By MORTON E. STEVENS,  
*His Attorney.*

Served August 27, 1919.

CONTESTANT'S EXHIBIT E.

FORT GIBBON, ALASKA,  
*August 27, 1919.*

MORTON E. STEVENS, *Fairbanks, Alaska:*

Of 10 men named on this section five are at Nulato, one at Nome, and four here. First six can not possibly arrive Fairbanks by 6th September. No orders received here to my knowledge by Secretary of War. Orders from higher authority than this post necessary to send them. I can not.

LEWIS.

CONTESTANT'S EXHIBIT F.

FAIRBANKS, ALASKA, *September 1, 1919.*

Col. LEWIS,

*Signal officer, Fort Gibbon, Alaska:*

Will you kindly assemble Beattie, Barr, Campbell, and Selk to appear before J. C. Denn, notary public at Tanana, September 6, 10 o'clock forenoon, to testify election contest case. Also assemble McConnell, Lake, Stroupe, Wescott, and Boon to appear before Frank Lyons, postmaster at Nulato, September 6, 10 o'clock forenoon, to testify in same case. Service of required notice for both places accepted by Clarke, attorney for Grigsby here. September 6 our last day. Please answer.

JAMES WICKERSHAM,  
*Contestant,*  
By MORTON E. STEVENS,  
*His Attorney.*

CONTESTANT'S EXHIBIT G.

FAIRBANKS, ALASKA, *September 1, 1919.*

J. C. DEHN,

*Notary Public, Tanana, Alaska:*

Please take depositions of William T. Barr, Edward E. Beattie, James M. Campbell, and Louis G. Selk, soldiers stationed at Fort Gibbon, at your office on September 6, at 10 o'clock forenoon. Use following form for each man:

"Election contest, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee. Sixty-sixth Congress. Pursuant to notice the testimony of (here insert name of witness) was taken before me, J. C. Dehn, a notary public in and for Alaska, at my office in the town of Tanana, Alaska, at 10 o'clock forenoon, September 6, 1919, said witness being first duly sworn testified as follows:

"Direct interrogatories:

"1. State your name, age, and occupation.

"2. Were you a soldier in the United States Army November 5, 1918?



- "3. When and where did you enlist prior to last-named date?  
 "4. Was you a resident of Alaska when you so enlisted?  
 "5. Did you vote at the election November 5, 1918 for Delegate to Congress?  
 "6. Where did you vote?  
 "7. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?  
 "(Contestee objects to seventh question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.)

"Cross interrogatories by JOHN A. CLARK, attorney for Grigsby:

"1. How long had you resided in the precinct in which you voted before November 5, 1918?

"2. How long had you resided in Alaska before November 5, 1918?

"(Signature of witness.)

"Subscribed and sworn to before me this 6th day of September, 1919.

"J. C. DEHN,

"Notary Public in and for Alaska.

"My commission expires (give date, and attach seal)."

Ask witnesses each question and write answer in form, when all have testified and forms properly completed, attach all papers together and make one certificate as follows:

"I do hereby certify that the foregoing (here give number of pages) pages constitute a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Tanana, Alaska, in the contested election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham contestant, against Charles A. Sulzer, contestee, and George G. Grigsby, contestee, and of the whole thereof.

"J. C. DEHN,

"Notary Public in and for Alaska.

"My commission expires \_\_\_\_\_.

"[SEAL.] "

Attach your certificate to other papers, place all in envelope, address to Clerk of House of Representatives, Washington, D. C., indorse across end of envelope "Depositions for contestant. Election contest Wickersham v. Sulzer and Grigsby." Send by registered mail. Required notice has been served and accepted by Grigsby's attorney here. Please acknowledge receipt of this by wire, also state if you fully understand. Advise me of your charges which will be sent you forthwith.

JAMES WICKERSHAM,

Contestant.

By MORTON E. STEVENS,

His Attorney.

#### CONTESTANT'S EXHIBIT H.

FAIRBANKS, ALASKA, September 1, 1919.

FRANK LYONS,

Postmaster, Nulato, Alaska:

Please take depositions of James W. Boon, James P. Lake, James W. McConnell, Clement C. Stroups, and Howard G. Westcott at your office on September 6, at 10 o'clock forenoon. Use following form for each man:

"Election contest, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, Sixty-sixth Congress. Pursuant to notice the testimony of (here enter name of witness) was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at 10 o'clock forenoon, September 6, 1919, said witness being first duly sworn, testified as follows:

"Direct interrogatories.

- "1. State your name, age, and occupation.  
 "2. Were you a soldier in the United States Army November 5, 1918?  
 "3. When and where did you enlist prior to last-named date?  
 "4. Were you a resident of Alaska when you so enlisted?  
 "5. Did you vote at election November 5, 1918, for Delegate to Congress?  
 "6. Where did you vote?  
 "7. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?

"(Contestee objects to seventh question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.)

"Cross-interrogatories by JOHN A. CLARK, attorney for Grigsby:

"1. How long have you resided in the precinct in which you voted before November 5, 1918?

"2. How long had you resided in Alaska before November 5, 1918?  
 "(Signature of witness.)

"Subscribed and sworn to before me this 6th day of September, 1919.

"FRANK LYONS,  
 "Postmaster, Nulato, Alaska."

Swear each witness that he will tell truth; then ask each question and write answer in the form. When completed have witness sign and swear, and you sign jurat. When all witnesses are examined attach all papers together and make one certificate as follows:

"I do hereby certify that the foregoing (here give number of pages) pages constitute a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Nulato, Alaska, in the contested-election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

"FRANK LYONS,  
 "Postmaster at Nulato, Alaska."

After signing certificate attach same to other papers, place all in envelope, and address to Clerk of the House of Representatives, Washington, D. C. Indorse across end of envelope "Depositions for contestant. Election contest, Wickersham v. Sulzer and Grigsby." Send by registered mail. Advise me of your charges which will be sent you forthwith.

Please acknowledge by wire receipt of this; also state if you do not fully understand.

Required notice served and accepted by Grigsby's attorney here.

JAMES WICKERSHAM,  
 Contestant.  
 By MORTON E. STEVENS,  
 His Attorney.

CONTESTANT'S EXHIBIT I.

TANANA, September 2, 1919.

MORTON E. STEVENS, Fairbanks:

Telegram received and understood. Would it be possible take deposition of William T. Barr before Saturday? He is scheduled go out on steamer Yukon. Wire instructions.

J. C. DEHN.

CONTESTANT'S EXHIBIT J.

FAIRBANKS, ALASKA, September 2, 1919

J. C. DEHN, Tanana, Alaska:

No objection to your taking Barr's deposition before Saturday. Attach this telegram to your certificate as authority. Mail two copies of all depositions to Morton E. Stevens; include charge in your bill.

JAMES WICKERSHAM,  
 By MORTON E. STEVENS,  
 His Attorney.  
 JOHN A. CLARK,  
 Attorney for George Grigsby.

CONTESTANT'S EXHIBIT K.

NULATO, ALASKA. September 3, 1919.

MORTON E. STEVENS, Fairbanks:

Your messages 2d received and noted. Will comply as requested.

FRANK LYONS.

CONTESTANT'S EXHIBIT L.

FAIRBANKS, ALASKA, September 4, 1919.

Col. LEWIS,

*Signal Officer, Fort Gibbon, Alaska:*

Please advise me what action taken reference assembling men as requested by my wire September 1 to testify in Wickersham-Sulzer election contest case.

JAMES WICKERSHAM,  
By MORTON E. STEVENS,  
*His Attorney.*

CONTESTANT'S EXHIBIT M.

FORT GIBBON, ALASKA, September 5, 1919.

MORTON E. STEVENS, *Fairbanks:*

Men at Gibbon and Nulato will be assembled on 6th as you request. Orders already given.

LEWIS.

CONTESTANT'S EXHIBIT N.

FAIRBANKS, ALASKA, September 4, 1919.

A. J. GRIFFIN,

*Notary Public, Richardson, Alaska:*

Please take deposition Herman B. Stenbuck, election contest case, on September 6. Will send form and instructions by Friday's mail.

HENRY T. RAY.

CONTESTANT'S EXHIBIT O.

FAIRBANKS, ALASKA, March 12, 1918.

R. F. ROTH, Esq.,

*United States District Attorney, Fairbanks, Alaska:*

SIR: Ever since the general election of November 7, 1916, the report has been current that more or less illegal voting took place at Nenana at the election stated, such illegal votes having been cast more especially by persons who were disqualified by reason of not having resided in the Territory of Alaska for one year next preceding the election.

These alleged violations of the election law may be in a great measure chargeable to the laxness of the election officers under whose supervision the election was held in Nenana, and, if so, they ought to be held to account as an example for future election boards, as well as a warning to the public that the law may not be violated with impunity.

As specific instances, it is common knowledge, which may be verified by examining the election register of Nenana precinct, that Florence E. Cramer and Renie Riggs voted at the 1916 election when, it is alleged, neither had been a resident of Alaska for a sufficient length of time to bring them within the requirements of the law. However this may be, an investigation by your office and the grand jury would, no doubt, bring the true facts to light.

The object of bringing this matter to your attention is not to punish any particular person, but that the right to the free and lawful exercise of the franchise may be protected and preserved for those who are entitled to the same under the law.

Respectfully,

HENRY T. RAY.

CONTESTANT'S EXHIBIT P.

FORT GIBBON, ALASKA, August 30, 1919.

MORTON E. STEVENS, *Fairbanks, Alaska:*

Am directed to send 10 men of this section to Fairbanks if will not disrupt the telegraphic service. Four men, Beattie, Barr, Campbell, and Selk, here; five men, McConnell, Lake, Stroupe, Wescott, and H. G. Boon at Nulato; one man, Kraft, at Nome. What is latest date men can give testimony at Fairbanks. First boat from here to Fairbanks is September 3, and afraid will not reach Fairbanks by 6th. Impossible to get men from Nulato and Nome to Fairbanks in time. Taking five men from Nulato would cause us close station. Suggest you make arrangements to take evidence at Nulato and Nome if possible.

LEWIS.

To Charles A. Sulzer contestee, George B. Grigsby, contestee, and to John A. Clark, his agent and attorney:

You are hereby notified that the deposition of Herman B. Stenbuck, at present stationed at McCarty, Alaska, will be taken before A. J. Griffin, a notary public in and for Alaska, at his office at Richardson, Alaska, on the 6th day of September, 1919, at the hour of 10 o'clock a. m. of said day, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, to be read in evidence in the above entitled proceeding, on behalf of said James Wickersham, contestant.

You are requested to have your attorney or agent present at said examination to cross-examine said witness.

Dated this 30th day of August, 1919, at Fairbanks, Alaska.

JAMES WICKERSHAM,  
Contestant.

By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 30th day of August, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestees.

#### DEPOSITION OF HERMAN B. STENBUCK.

Now, on this 6th day of September, 1919, pursuant to notice hereto attached, the deposition of Herman B. Stenbuck was taken before me, A. J. Griffin, a notary public in and for Alaska, at my office at Richardson, Alaska, at the hour of 10 o'clock a. m. The said Herman B. Stenbuck being first duly sworn, on oath testified as follows:

##### Direct examination:

Q. State your name, age, and occupation.—A. Herman B. Stenbuck; 27 years. telegraph operator; Signal Corps.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to November 5, 1918?—A. In Chicago, November 1, 1915.

Q. Was you a resident of Alaska when you so enlisted?—A. No.

Q. Did you vote at the election on November 5, 1918, for Delegate to Congress from Alaska?—A. Yes.

Q. Where did you vote?—A. In Fairbanks, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska at said election?—A. I refuse to answer that question.

##### Cross-examination of Herman B. Stenbuck.

Q. How long had you resided in Alaska prior to November 5, 1918?—A. About two years and six months.

Q. How long had you resided in the precinct where you voted prior to said date?—A. About one year.

Q. How old were you when you enlisted in the United States Army?—A. Twenty-three years old.

Q. Had you ever voted before you enlisted in the Army?—A. No.

Q. Did you have a voting residence at any place in the United States outside of the Territory of Alaska at the time of your enlistment?—A. No.

Q. What was your purpose in coming to Alaska?—A. To better my condition from a financial standpoint.

Q. Was it your intention to remain in Alaska when your enlistment expired?—A. Yes.

Q. Were you desirous of securing a position as telegraph operator with the Alaska Railroad when it was completed?—A. Yes; if it didn't take too long to complete it.

Q. When you came to Alaska did you intend to make Alaska your home?—A. Yes.

HERMAN B. STENBUCK,

Subscribed and sworn to before me this 6th day of September, 1919.

[SEAL.]

A. J. GRIFFIN.

Notary Public in and for the Territory of Alaska,  
residing at Richardson, Alaska.

My commission expires March 28, 1920.

CAUTION TO WITNESS.

Counsel for Contestee Grigsby objects to the question wherein the witness is asked to tell for whom he voted for Delegate at the general election held in Alaska on November 5, 1918, for the reason that said witness is not required to answer said question and can not be required to disclose the name of any candidate for whom he voted at said election unless he so desires.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

I, A. J. Griffin, a notary public in and for Alaska, duly commissioned and qualified, do hereby certify that the foregoing two pages constitute a full, true, and correct transcript of the proceedings had before me on Saturday, the 6th day of September, 1919, at my office at Richardson, Alaska, in the contested-election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, v. Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

In witness whereof I have hereunto set my hand and notarial seal this 6th day of September, 1919.

[SEAL.]

A. J. GRIFFIN.  
*Notary Public in and for Alaska.*

My commission expires March 28, 1920.

FAIRBANKS, ALASKA, *September 12, 1919.*

FRANK LYONS,  
*Postmaster, Nulato:*

Please take depositions of James W. Boon, James P. Lake, James W. McConnell, Clement C. Stroupe, and Howard G. Westcott at your office on September 6 at 10 o'clock forenoon. Use following form for each man:

Election contest James Wickersham, contestant, v. Charles A. Sulzer, contestee, and George B. Grigsby, contestee, Sixty-sixth Congress. Pursuant to notice the testimony of (here enter name of witness) was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at 10 o'clock forenoon, September 6, 1919. Said witness being first duly sworn, testified as follows:

Direct interrogatories:

1. State your name, age, and occupation.
  2. Were you a soldier in the United States Army November 5, 1918?
  3. When and where did you enlist prior to last-named date?
  4. Was you a resident of Alaska when you so enlisted?
  5. Did you vote at election November 5, 1918, for Delegate to Congress?
  6. Where did you vote?
  7. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?
- Contestee objects to seventh question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

Cross-interrogatories by John A. CLARK, attorney for Grigsby:

1. How long had you resided in the precinct in which you voted before November 5, 1918?
  2. How long had you resided in Alaska before November 5, 1918?
- (Signature of witness.)

Subscribed and sworn to before me this 6th day of September, 1919. Frank Lyons, postmaster, Nulato, Alaska.

Swear each witness that he will tell truth; then ask each question and write his answer in the form; when completed, have witness sign and swear, and you sign jurat when all witnesses examined; attach all papers together, and make one certificate, as follows:

"I do hereby certify that the foregoing (here give number of pages) pages constitute a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Nulato, Alaska, in the contested-election case in the House of Representatives of the United States, Sixty-sixth Congress, first session; James Wickersham, contestant, v. Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof. Frank Lyons, postmaster at Nulato, Alaska."

After signing certificate attach same to other papers, place all in envelope, address to Clerk of House of Representatives, Washington, D. C., indorse



across end of envelope: "Depositions for contested-election contest, Wickersham v. Sulzer and Grigsby." Send by registered mail; advise me of your charges, which will be sent you forthwith.

Election contest James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee. Sixty-sixth Congress, pursuant to notice the testimony of James W. Boon was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at 9 o'clock forenoon September 6, 1919, said witness, being duly sworn, testified as follows:

DEPOSITION OF JAMES W. BOON.

Direct interrogatories:

Q. State your name, age, and occupation.—A. James W. Boon; 34; soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. Jackson Barracks, New Orleans, La.

Q. Were you a resident of Alaska when you so reenlisted?—A. Yes; reenlisted St. Michael November, 1916.

Q. Did you vote at election November 5, 1918, for Delegate to Congress?—A. Yes.

Q. Where did you vote?—A. Nulato.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?—A. Yes.

Contestee objects to question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

Cross-interrogatories by JOHN A. CLARK, attorney for George B. Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Three months.

Q. How long had you resided in Alaska before November 5, 1918?—A. Five years.

JAMES W. BOON.

Subscribed and sworn to before me this 5th day of September, 1919.

FRANK LYONS,  
Postmaster, Nulato, Alaska.

I do hereby certify that the foregoing one page constituted a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Nulato, Alaska, in the contest election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

FRANK LYONS,  
Postmaster at Nulato, Alaska.

Election contest James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, Sixty-sixth Congress, pursuant to notice the testimony of James P. Lake was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at — o'clock — noon, September 6, 1919, said witness, being duly sworn, testified as follows:

DEPOSITION OF JAMES P. LAKE.

Direct interrogatories:

Q. State your name, age, and occupation.—A. James P. Lake; 34 years; soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. Jefferson Barracks, Mo., August 11, 1913.

Q. Were you a resident of Alaska when you so enlisted?—A. No.

Q. Did you vote at election November 5, 1918, for Delegate to Congress?—A. Yes.

Q. Where did you vote?—A. Nulato, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?—A. Yes.

Contestee objects to question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

Cross interrogatories by JOHN A. CLARK, attorney for George B. Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Three years five months.

Q. How long had you resided in Alaska before November 5, 1918?—A. Four years three months.

JAMES P. LAKE.

Subscribed and sworn to before me this 5th day of September, 1919:

FRANK LYONS,  
*Postmaster, Nulato, Alaska.*

I do hereby certify that the foregoing one page constituted a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Nulato, Alaska, in the contest election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

FRANK LYONS,  
*Postmaster at Nulato, Alaska.*

Election contest, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, Sixty-sixth Congress; pursuant to notice the testimony of James W. McConnell was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at — o'clock — noon, September 6, 1919; said witness being duly sworn, testified as follows:

DEPOSITION OF JAMES W. M'CONNELL.

Direct interrogatories:

Q. State your name, age, and occupation.—A. James W. McConnell; 35 years. Soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. June 16, 1918. Zanesville, Ohio.

Q. Were you a resident of Alaska when you so enlisted?—A. No, sir.

Q. Did you vote at election November 5, 1918, for Delegate to Congress?—A. No, sir.

Q. Where did you vote?—A. Barnesville, Ohio.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?—A. No.

Contestee objects to question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

Cross interrogatories by JOHN A. CLARK, attorney for George B. Grigsby.

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Three months.

Q. How long had you resided in Alaska before November 5, 1918?—A. Three months.

JAMES W. McCONNELL

Subscribed and sworn to before me this 5th day of September, 1919.

FRANK LYONS,  
*Postmaster, Nulato, Alaska.*

I do hereby certify that the foregoing one page constituted a full, true, and correct transcript of the proceedings had before me on Saturday, September, 6, 1919, at Nulato, Alaska, in the contest election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

FRANK LYONS,  
*Postmaster at Nulato, Alaska.*

Election contest, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, Sixty-sixth Congress; pursuant

to notice the testimony of Clement C. Stroupe was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at 10 o'clock forenoon, September 6, 1919; said witness being duly sworn, testified as follows:

## DEPOSITION OF CLEMENT C. STROUPE.

## Direct interrogatories:

Q. State your name, age, and occupation.—A. Clement C. Stroupe. Age 28. Soldier, radio operator.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. San Francisco, Calif., August 2, 1913.

Q. Were you a resident of Alaska when you so enlisted?—A. No.

Q. Did you vote at election November 5, 1918, for Delegate to Congress?—A. Yes.

Q. Where did you vote?—A. Nulato, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?—A. No.

Contestee objects to question, and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

## Cross interrogatories by JOHN A. CLARK, attorney for George B. Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Four years.

Q. How long had you resided in Alaska before November 5, 1918?—A. Four years.

CLEMENT C. STROUPE.  
*Signature of witness.*

Subscribed and sworn to before me this 5th day of September, 1919.

FRANK LYONS,  
*Postmaster, Nulato, Alaska.*

I do hereby certify that the foregoing one page constitutes a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Nulato, Alaska, in the contest election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

FRANK LYONS,  
*Postmaster at Nulato.*

Election contest, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, Sixty-sixth Congress. Pursuant to notice, the testimony of Howard G. Wescott was taken before me, Frank Lyons, postmaster, at my office at Nulato, Alaska, at 10 o'clock, forenoon, September 6, 1919; said witness, being duly sworn, testifies as follows:

## DEPOSITION OF HOWARD G. WESCOTT.

## Direct interrogatories:

Q. State your name, age, and occupation.—A. Howard G. Wescott; 36 years; soldier.

Q. Were you a soldier in the United States Army November 5, 1918?—A. Yes.

Q. When and where did you enlist prior to last-named date?—A. February 20, 1914; San Francisco, Calif.

Q. Were you a resident of Alaska when you so enlisted?—A. No.

Q. Did you vote at election November 5, 1918, for Delegate to Congress?—A. Yes.

Q. Where did you vote?—A. Nulato, Alaska.

Q. Did you vote for Charles A. Sulzer for Delegate to Congress from Alaska?

Contestee objects to question and instructs witness that he can not be required to disclose name of candidate voted for unless he wants to.

Cross-interrogatories by JOHN A. CLARK, attorney for George B. Grigsby:

Q. How long had you resided in the precinct in which you voted before November 5, 1918?—A. Two years eight months.

Q. How long had you resided in Alaska before November 5, 1918?—A. Three years 10 months.

HOWARD G. WESCOTT,  
*Signature of Witness.*

Subscribed and sworn to before me this 5th day of September, 1919.

FRANK LYONS,  
*Postmaster, Nulato, Alaska.*

I do hereby certify that the foregoing one page constitutes a full, true, and correct transcript of the proceedings had before me on Saturday, September 6, 1919, at Nulato, Alaska, in the contest-election case in the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, against Charles A. Sulzer, contestee, and George B. Grigsby, contestee, and of the whole thereof.

FRANK LYONS,  
*Postmaster at Nulato.*

EXHIBIT A.

Duplicate primary election register and tally book for Valdez voting precinct or precinct No. —, Valdez recording district or town of Valdez—Division No. 3, Territory of Alaska, April 30, 1918.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, Third Division, do hereby certify that the attached is a full, true, and correct copy of the original "Duplicate Primary Election Register and Tally Book" for Valdez voting precinct for the primary election held April 30, 1918, in so far as the same relates to the election of a Delegate to Congress from Alaska, as the same appears on file and of record in my office.

In testimony whereof, I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LANG, *Clerk.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, W. S. Frazer, do solemnly swear that I am a qualified elector residing in the ——— voting precinct, or precinct No. ——— of Valdez recording district; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

[SEAL.]

W. S. FRAZER, *Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

ANTHONY J. DIMOND,  
*Notary Public for Alaska.*

My commission expires February 13, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, James McHie, do solemnly swear that I am a qualified elector residing in the Valdez recording district voting precinct, or precinct No. ——— of ——— recording district; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

JAMES MCHIE, *Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

ANTHONY J. DIMOND,  
*Notary Public for Alaska.*

My commission expires February 13, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, E. L. Dickey, do solemnly swear that I am a qualified elector residing in the Valdez recording district voting precinct, or precinct No. — of — recording district; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

E. L. DICKEY, *Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

ANTHONY J. DIMOND,

*Notary Public for Alaska.*

My commission expires February 13, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, C. H. Voll, do solemnly swear that I am a qualified elector residing in the Valdez voting precinct, or precinct No. — of Third Division, Territory of Alaska; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of clerk of election in and for the said precinct and district. So help me God.

C. H. VOLL, *Election Clerk.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

ANTHONY J. DIMOND,

*Notary Public for Alaska.*

My commission expires February 13, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, T. H. Hunt, do solemnly swear that I am a qualified elector residing in the Valdez voting precinct, or precinct No. — of Third Division, Territory of Alaska; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of clerk of election in and for said precinct and district. So help me God.

T. H. HUNT, *Election Clerk.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

ANTHONY J. DIMOND,

*Notary Public for Alaska.*

My commission expires February 13, 1921.

No.	Name.	Residence.	Party.	Voted.
1	A. L. Singletary.....	Valdez.....	Democrat.....	Yes.
2	C. J. Todd.....	do.....	do.....	Yes.
3	F. J. Hays.....	do.....	do.....	Yes.
4	A. J. Dimond.....	do.....	do.....	Yes.
5	E. L. Dickey.....	do.....	do.....	Yes.
6	James McHie.....	do.....	Republican.....	Yes.
7	W. S. Frazer.....	do.....	Democrat.....	Yes.
8	Adam Swan.....	do.....	do.....	Yes.
9	C. H. Voll.....	do.....	Republican.....	Yes.
10	T. H. Hunt.....	do.....	Democrat.....	Yes.
11	R. H. L. Noaks.....	do.....	do.....	Yes.
12	Chas. T. Burk.....	do.....	do.....	Yes.
13	W. H. Brennen.....	do.....	Republican.....	Yes.
14	Geo. J. Love.....	do.....	Democrat.....	Yes.
15	E. Sperstad.....	do.....	do.....	Yes.
16	James E. Wilson.....	do.....	do.....	Yes.
17	L. M. Rothkranz.....	do.....	do.....	Yes.
18	A. J. Meals.....	do.....	do.....	Yes.
19	W. A. Munley.....	do.....	do.....	Yes.
20	W. R. Morton.....	do.....	do.....	Yes.
21	J. C. Tieringer.....	do.....	do.....	Yes.
22	Mrs. F. R. Wilson.....	do.....	do.....	Yes.
23	Fred Wilson.....	do.....	do.....	Yes.
24	Joseph L. Reed.....	do.....	Republican.....	Yes.
25	E. S. Larson.....	do.....	Democrat.....	Yes.
26	John B. Miller.....	do.....	do.....	Yes.
27	John Rosine.....	do.....	do.....	Yes.
28	Charles Olsen.....	do.....	do.....	Yes.
29	Edward Wood.....	do.....	Republican.....	Yes.



No.	Name.	Residence.	Party.	Voted.
30	Neal O'Connor.....	Valdez.....	Democrat.....	Yes.
31	Bur. M. Snyder.....	do.....	do.....	Yes.
32	I. A. Beal.....	do.....	do.....	Yes.
33	Rudolph Elmquist.....	do.....	do.....	Yes.
34	Mack J. Schmidt.....	do.....	do.....	Yes.
35	Harry Shutts.....	do.....	do.....	Yes.
36	Joseph E. Bourke.....	do.....	do.....	Yes.
37	Guss F'Garf.....	do.....	do.....	Yes.
38	Chas. A. Agneetti.....	do.....	do.....	Yes.
39	Jake Hepfinger.....	do.....	do.....	Yes.
40	E. E. Richey.....	do.....	Republican.....	Yes.
41	G. Jenner.....	do.....	Democrat.....	Yes.
42	Wm. D. Coppernoll.....	Seward.....	Republican.....	Yes.
43	James Narey.....	Valdez.....	Democrat.....	Yes.
44	Harrie Ober.....	do.....	Republican.....	Yes.
45	Heber Smith.....	do.....	Democrat.....	Yes.
46	M. H. Faust.....	do.....	do.....	Yes.
47	A. N. Sundt.....	do.....	do.....	Yes.
48	John Erickson.....	do.....	do.....	Yes.
49	L. A. Becker.....	do.....	do.....	Yes.
50	R. R. Herman.....	do.....	do.....	Yes.
51	Wm. Schmidt.....	do.....	Republican.....	Yes.
52	Carl Nelson.....	do.....	do.....	Yes.
53	H. P. Sullivan.....	do.....	do.....	Yes.
54	Anna S. Barritt.....	do.....	Democrat.....	Yes.
55	C. C. Howard.....	do.....	do.....	Yes.
56	Joseph A. Silverman.....	do.....	do.....	Yes.
57	M. J. Cal'ihan.....	do.....	Republican.....	Yes.
58	H. T. Whitley.....	do.....	Democrat.....	Yes.
59	W. A. olen.....	do.....	do.....	Yes.
60	John Ekamo.....	do.....	do.....	Yes.
61	Nick Welch.....	do.....	do.....	Yes.
62	C. B. Smith.....	do.....	Republican.....	Yes.
63	Arvard Temple.....	Elmar.....	Democrat.....	Yes.
64	Mrs. S. O. Casseler.....	Valdez.....	do.....	Yes.
65	S. O. Casseler.....	do.....	do.....	Yes.
66	Bert Skinner.....	do.....	Democratic.....	Yes.
67				
68	Frank J. Neinger.....	Valdez.....	Democratic.....	Yes.
69	Mrs. Frank Nineger.....	do.....	do.....	Yes.
70	W. J. Morton.....	do.....	Republican.....	Yes.
71	John Bouse.....	do.....	Democratic.....	Yes.
72	Guy Cameron.....	do.....	do.....	Yes.
73	John Cook.....	do.....	do.....	Yes.
74	C. H. Wilcox.....	do.....	do.....	Yes.
75	T. E. Dorhety.....	do.....	do.....	Yes.
76	Ada Marovich.....	do.....	Socialist.....	Yes.
77	Al. Dowling.....	do.....	Democratic.....	Yes.
78	Alex A. Kott.....	do.....	do.....	Yes.
79	Willard Scott.....	do.....	Republican.....	Yes.
80	H. G. Bennett.....	do.....	Democratic.....	Yes.
81	Arthur Lang.....	do.....	do.....	Yes.
82	Mrs. Arthur Lang.....	do.....	do.....	Yes.
83	C. L. Holt.....	do.....	do.....	Yes.
84	H. J. Harvey.....	do.....	do.....	Yes.
85	A. Von Gunther.....	do.....	do.....	Yes.
86	Mrs. A. Von Gunther.....	do.....	do.....	Yes.
87	Mrs. Harvey Sullivan.....	do.....	Republican.....	Yes.
88	Isaace Hamberger.....	do.....	Democratic.....	Yes.
89	G. H. Merrifield.....	do.....	do.....	Yes.
90	T. J. Donehue.....	do.....	do.....	Yes.
91	Mrs. T. J. Donehue.....	do.....	do.....	Yes.
92	Mrs. W. M. Cuddy.....	do.....	do.....	Yes.
93	W. M. Cuddy.....	do.....	Republican.....	Yes.
94	Mrs. Wm. Whalen.....	do.....	Democratic.....	Yes.
95	Wm. Whalen.....	do.....	do.....	Yes.
96	Fred Raist.....	do.....	do.....	Yes.
97	Bruse Haines.....	do.....	do.....	Yes.
98	Nich Micken.....	do.....	do.....	Yes.
99	R. A. W. Krampitz.....	do.....	do.....	Yes.
100	Wm. Holland.....	do.....	do.....	Yes.
101	J. M. Davis.....	do.....	do.....	Yes.
102	Mrs. James Patterson.....	do.....	do.....	Yes.
103	Mrs. Chas. Crawford.....	do.....	do.....	Yes.
104	Mrs. J. A. McGilvery.....	do.....	do.....	Yes.
105	C. C. Rudolph.....	do.....	do.....	Yes.
106	Mrs. C. C. Howard.....	do.....	do.....	Yes.
107	R. A. Schrader.....	do.....	do.....	Yes.
108	Chas. J. Miner.....	do.....	Republican.....	Yes.
109	Mrs. Joe Braxton.....	do.....	Democratic.....	Yes.
110	Joe Braxton.....	do.....	do.....	Yes.
111	Mrs. Chas. Winans.....	do.....	do.....	Yes.
112	Dr. Chas. Winans.....	do.....	do.....	Yes.
113	J. R. Crittenden.....	do.....	Republican.....	Yes.
114	John G. Snyder.....	do.....	do.....	Yes.

No.	Name.	Residence.	Party.	Voted.
115	Mrs. F. R. Brenneman	Valdez	Democratic	Yes.
116	F. R. Brenneman	do	do	Yes.
117	J. C. Martin	do	Republican	Yes.
118	W. H. Cramer	do	Democratic	Yes.
119	Mrs. R. Ashby	do	Republican	Yes.
120	Mrs. Wm. Schmidt	do	do	Yes.
121	Mrs. A. R. Boyd	do	do	Yes.
122	John H. Biggs	do	Democratic	Yes.
123	Geo. W. Robbins	do	do	Yes.
124	Peter E. Cashman	do	Republican	Yes.
125	Owen E. Meals	do	Democratic	Yes.
126	Mrs. Wm. Blackwell	do	do	Yes.
127	Mrs. Bruce Haines	do	do	Yes.
128	Mike Zaharoff	do	do	Yes.
129	W. I. Levy	do	do	Yes.
130	Frank Gutivason	do	Republican	Yes.
131	Mrs. W. Kramer	do	Democratic	Yes.
132	Mrs. Alis M. Bell	do	do	Yes.
133	Mrs. H. R. Miller	do	do	Yes.
134	Mrs. C. H. Wilcox	do	do	Yes.
135	Mrs. Wm. Dolen	do	do	Yes.
136	Mrs. J. F. Schrine	do	do	Yes.
137	Horace Deline	do	do	Yes.
138	Mrs. O. P. Hubbard	do	do	Yes.
139	G. W. Cook	do	do	Yes.
140	Nels Jepson	do	do	Yes.
141	Wm. Elliott	do	do	Yes.
142	Mrs. C. C. Rudolph	do	do	Yes.
143	W. F. Iows	do	do	Yes.
144	Mrs. J. A. Silverman	do	do	Yes.
145	Mrs. A. J. Diamond	do	do	Yes.
146	Mrs. Alice Iows	do	do	Yes.
147	Hans Steinfeldt	do	Socialist	Yes.
148	Mrs. Emma Jenson	do	Democratic	Yes.
149	A. S. Jenson	do	do	Yes.
150	R. D. Kelsey	do	do	Yes.
151	Randell Ashby	do	Republican	Yes.
152	E. D. Hatheway	do	Democratic	Yes.
153	A. M. Walker	do	do	Yes.
154	Miss Jennie Raymond	do	Republican	Yes.
155	Louis Rosenthal	do	Democratic	Yes.
156	Ernest Wheat	do	Republican	Yes.
157	Mrs. W. I. Levy	do	do	Yes.
158	Mrs. F. P. Cashman	do	do	Yes.
159	Mrs. Wm. Meals	do	Democratic	Yes.
160	Wm. Meals	do	do	Yes.
161	W. S. Stuart	do	do	Yes.
162	Geo. Tiffany	do	Republican	Yes.
163	Carl Hering	do	Democratic	Yes.
164	Mark Gleason	do	do	Yes.
165	M. s. E. Hunt	do	do	Yes.
166	Mrs. Josie Fisher	do	do	Yes.
167	Mrs. Dune Ames	do	do	Yes.
168	George Francis	do	Republican	Yes.
169	Thomas Beasley	do	Democratic	Yes.
170	Mrs. G. J. Zinn	do	do	Yes.
171	Mr. G. J. Zinn	do	do	Yes.
172	Wm. Snyder	do	Republican	Yes.
173	Mrs. ( ) Gaeng	do	Democratic	Yes.
174	E. A. Sweet	do	do	Yes.
175	Jas. H. Paterson	do	do	Yes.
176	Mrs. J. L. Reed	do	Republican	Yes.
177	Melville Kibble	do	do	Yes.
178	Mrs. Minnie E. Whitley	do	Democratic	Yes.
179	W. H. Palmer	do	do	Yes.
180	Clinton J. Eagen	do	do	Yes.
181	Mrs. Willard Scott	do	Republican	Yes.
182	Mrs. M. H. Faust	do	Democratic	Yes.
183	Mrs. Annie Austin	do	do	Yes.
184	J. A. McGilvery	do	do	Yes.
185	J. D. Lyons	do	Republican	Yes.
186	Archie Park	do	do	Yes.
187	Jesse A. Crawford	do	do	Yes.
188	Mrs. Wm. H. Caswell	do	Democratic	Yes.
189	J. Q. Fish	do	do	Yes.
190	Mrs. W. E. Eagen	do	do	Yes.
191	T. O. Bell	do	Republican	Yes.
192	Mrs. John M. Emmil	do	Democratic	Yes.
193	John M. Emmil	do	do	Yes.
194	T. J. Deviney	do	do	Yes.
195	Mrs. Chas. Romar	do	Republican	Yes.
196	W. H. Bailey	do	Democratic	Yes.
197	Ralph Wentler	do	Republican	Yes.
198	E. G. Ames	do	Democratic	Yes.
199	T. G. Quinn	do	Republican	Yes.

No.	Name.	Residence.	Party.	Voted.
210	Mrs. A. B. Deringer.....	Valdez.....	Democratic.....	Yes.
211	Mrs. A. M. Deringer.....	do.....	do.....	Yes.
212	E. Austin.....	do.....	do.....	Yes.
213	Mrs. L. L. Middlecamp.....	Ellamar.....	do.....	Yes.
214	Mrs. Jacobson.....	Valdez.....	do.....	Yes.
215	Judge F. M. Brown.....	do.....	do.....	Yes.
216	Mrs. R. L. Clifton.....	do.....	do.....	Yes.
217	George M. Mead.....	do.....	do.....	Yes.
218	A. M. Deringer.....	do.....	do.....	Yes.
219	Mrs. T. E. Wickedel.....	do.....	Republican.....	Yes.
220	M. A. Misick.....	do.....	do.....	Yes.
221	Mrs. E. Winter.....	do.....	Democratic.....	Yes.
222	Mathew McGlade.....	do.....	Republican.....	Yes.
223	E. W. Hunt.....	do.....	Democratic.....	Yes.
224	H. G. Clifton.....	do.....	do.....	Yes.
225	Mrs. A. C. Hoodenpyle.....	do.....	do.....	Yes.
226	Mr. A. C. Hoodenpyle.....	do.....	do.....	Yes.
	Mrs. E. Miles.....	do.....	do.....	Yes.
	Mrs. J. C. Martin.....	do.....	Republican.....	Yes.
	Mrs. H. E. F. King.....	do.....	Democratic.....	Yes.
	Mrs. Anna Berkland.....	do.....	do.....	Yes.
	H. E. F. King.....	do.....	do.....	Yes.
	Wm. Thomas.....	do.....	do.....	Yes.
	Geo. O. Ranke.....	do.....	do.....	Yes.
	Otto Elstrom.....	do.....	Republican.....	Yes.
	Antone Dalstrom.....	do.....	do.....	Yes.
	Mrs. R. D. Kelsey.....	do.....	Democratic.....	Yes.

CERTIFICATE.

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division, ss:

We, James McHie and W. S. Frazer and E. L. Dickey, and T. Hunt and C. H. Voll, respectively, judges and clerks of election, constituting the election board for Valdez, voting precinct or precinct No. 1 of the Valdez recording district or town of Valdez, Third Division, Territory of Alaska, do hereby certify that the within and foregoing election register, containing 7 written pages, constitutes a true and correct list of all the names of and all data required by law relative to all persons who voted or offered to vote at the primary election held in said voting precinct, Territory of Alaska, Third Division, on the 30th day of April, 1918, and that the total number of persons voting was 225.

Dated at Valdez this 30th day of April, 1918.

JAMES MCHIE,  
W. S. FRAZER,  
E. L. DICKEY,  
Judges.  
T. H. HUNT,  
C. H. VOLL,  
Clerks.

For Delegate from Alaska, Democratic Party.

Maloney, William-----15  
Sulzer, Charles A-----150

CERTIFICATE OF RESULTS, DEMOCRATIC PRIMARY ELECTION.

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division, ss:

We, the undersigned, hereby certify that the following is a true and correct certificate of results of the primary election held April 30, 1918, to elect candidates for "Delegates from Alaska" and for "Members of the Legislature of the Territory of Alaska," and for "Road commissioner, road district No. 3," held in the Valdez voting precinct, or precinct No. 1 of the Valdez recording district, or town of Valdez, Third Division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Democratic Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows, to wit:

For Delegate from Alaska—Maloney, William, 15; Sulzer, Charles A., 150.  
And the total number of ballots cast is 172.  
Dated at Valdez, Alaska, this 30th day of April, 1918.

JAMES MCHIE,  
W. S. FRAZER,  
E. L. DICKEY,  
T. H. HUNT,  
C. H. VOLL.  
*Election Board.*

*For Delegate from Alaska, Republican Party.*

Wickersham, James	25
Ray, L. V.	1
Sulzer, Charles A.	9

CERTIFICATE OF RESULTS, REPUBLICAN PRIMARY ELECTION.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results, of the primary election held April 30, 1918, to elect candidates for "Delegate from Alaska," and for "Members of the Legislature of the Territory of Alaska," and for "Road commissioner, road district No. 3," held in the Valdez voting precinct, or precinct No. 1 of the Valdez recording district, or town of Valdez, Third Division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Republican Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows, to wit:

For Delegate from Alaska: Wickersham, James, received 25; Ray, L. V., received 1; Sulzer, Charles A., received 9.  
And the total number of ballots cast is 51.  
Dated at Valdez, Alaska, this 30th day of April, 1918.

JAMES MCHIE.  
W. S. FRAZER,  
E. L. DICKEY,  
C. H. VOLL.  
T. H. HUNT,  
*Election Board.*

*For Delegate from Alaska, Socialist Party.*

Connolly, Francis	0
Wickersham, James	1
Sulzer, Charles A.	1

CERTIFICATE OF RESULTS, SOCIALIST PRIMARY ELECTION.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results, of the primary election held April 30, 1918, to elect candidates for "Delegate from Alaska," and for "Members of the Legislature of the Territory of Alaska" and for "Road commissioner, road district No. 3," held in the Valdez voting precinct, or precinct No. 1 of the Valdez recording district, or town of Valdez, Third Division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Socialist Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows, to wit:

For Delegate from Alaska: Connolly, Francis, received 0; Wickersham, James, received 1; Sulzer, Charles A., received 1.

And the total number of ballots cast is 2.

Dated at Valdez, Alaska, this 30th day of April, 1918.

JAMES MCHIE,  
W. S. FRAZER,  
E. L. DICKEY,  
C. H. VOLL,  
T. H. HUNT,  
*Election Board.*

#### EXHIBIT B.

Election register and tally book for November, 1918, election for Delegate to Congress, members to the Legislature of the Territory of Alaska, and road commissioner for the third judicial division of Alaska; Valdez Bay voting precinct in the Valdez recording district, Territory of Alaska, third division.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct copy of the original election register and tally book for November 5, 1918, election, Valdez Bay voting precinct, Valdez recording district, in so far as the same relates to Delegate to Congress from Alaska, as the same appears on file and of record in my office.

In testimony whereof, I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LANG, *Clerk.*

#### OATHS OF OFFICE TO BE TAKEN BY JUDGES OF ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, A. E. Rucker, do solemnly swear that I am a qualified elector residing in the Valdez Bay voting precinct of Valdez recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

A. E. RUCKER.

Subscribed and sworn to before me this 5th day of November, 1918.

EDWARD P. CASHMAN,  
*Duly Authorized Judge of Election.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, Lysle D. Brown, do solemnly swear that I am a qualified elector residing in the Valdez Bay voting precinct, of Valdez recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

LYSLE D. BROWN.

Subscribed and sworn to before me this 5th day of November, 1918.

EDWARD P. CASHMAN,  
*Duly Authorized Judge of Election.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, Edward P. Cashman, do solemnly swear that I am a qualified elector residing in the Valdez Bay voting precinct, of Valdez recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

EDWARD P. CASHMAN.

Subscribed and sworn to before me this 5th day of November, 1918.

A. E. RUCKER,  
*Duly Authorized Judge of Election.*



Num-ber of per-sons vot-ing.	Names of voters.	Voted.	Num-ber of per-sons vot-ing.	Name of voters.	Voted.
1	Fred C. Hartman.....	Yes.	19	A. E. Rucker.....	Yes.
2	C. A. Edmund.....	Yes.	20	Sam Campbell.....	Yes.
3	H. M. Lawrence.....	Yes.	21	Joseph Newman.....	Yes.
4	E. C. Reuter.....	Yes.	22	E. A. Johnson.....	Yes.
5	Jerry T. Allen.....	Yes.	23	R. B. Hamillton.....	Yes.
6	Pete Tessiore.....	Yes.	24	Fred C. Bretherson.....	Yes.
7	John Turner.....	Yes.	25	A. J. Davis.....	Yes.
8	Charles Wyatt.....	Yes.	26	Mrs. James W. Johnston.....	Yes.
9	John D. Chamberlain.....	Yes.	27	James W. Johnston.....	Yes.
10	Frank Forker.....	Yes.	28	George F. Baker.....	Yes.
11	John T. McEvoy.....	Yes.	29	W. S. Beck.....	Yes.
12	Patrick McDermott.....	Yes.	30	H. T. Anderson.....	Yes.
13	Frank Poore.....	Yes.	31	William N. Hoaring.....	Yes.
14	Claude H. James.....	Yes.	32	Bruce Rider.....	Yes.
15	Eric Myhberg.....	Yes.	33	P. S. Truckey.....	Yes.
16	A. J. Penttinen.....	Yes.	34	R. Presley.....	Yes.
17	Edward P. Cashman.....	Yes.	35	W. T. Stuart.....	Yes.
18	Lysle D. Brown.....	Yes.	36	Mrs. E. P. Cashman.....	Yes.

CERTIFICATE.

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division, ss:

We, Edward P. Cashman, A. E. Rucker, and Lysle D. Brown, respectively judges and clerks of election, constituting the election board for Valdez Bay, voting precinct of the Valdez recording district, third division, Territory of Alaska, do hereby certify that the within and foregoing election register, containing one written page constitutes a true and correct list of all the names of and all data required by law relative to all persons who voted or offered to vote at the election held in said voting precinct, Territory of Alaska, third division, on the 5th day of November, 1918; and that the total number of persons voting thereat was 36; and we do further certify that the said election register was kept and signed in duplicate, as required by statute.

Dated at Granby Mine, this 5th day of November, 1918.

EDWARD P. CASHMAN,  
A. E. RUCKER,  
LYSLE D. BROWN.

For Delegate to Congress.

Connolly, Francis.....	1
Sulzer, Charles A.....	24
Wickersham, James.....	11

CERTIFICATE OF JUDGES OF ELECTION TO ELECTION RETURNS.

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division, ss:

We, the undersigned, hereby certify that the following is a true and correct certificate of the result of the November, 1918, election for Delegate to Congress, members of the Legislature of the Territory of Alaska, and road commissioner for the third division, Territory of Alaska, held in the Valdez Bay voting precinct of the Valdez recording district, third division, Territory of Alaska, of which for Delegate to Congress Francis Connolly, received 1 vote; Charles A. Sulzer received 24 votes; and James Wickersham received 11 votes.

Dated at Granby Mine, Alaska, this 5th day of November, 1918.

EDWARD P. CASHMAN,  
A. E. RUCKER,  
LYSLE D. BROWN,  
Election Board.

EXHIBIT C.

Election Register and tally book for November, 1918, election for Delegate to Congress, members to the Legislature of the Territory of Alaska, and road commissioner for the third judicial division of Alaska, Valdez voting precinct in the Valdez recording district, Territory of Alaska, third division.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct copy of the original election register and tally book for November 5, 1918, election, held at Valdez, Valdez recording district, in so far as the same relates to the election of Delegate to Congress from Alaska as the same appears on file and of record in my office.

In testimony whereof, I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LANG, *Clerk.*

OATHS OF OFFICE TO BE TAKEN BY JUDGES OF ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, Louis Rosenthal, do solemnly swear that I am a qualified elector residing in the Valdez voting precinct, of Valdez recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

LOUIS ROSENTHAL.

Subscribed and sworn to before me this 5th day of November, 1918.

ANTHONY J. DIMOND,  
*Notary Public for Alaska.*

My commission expires February 13, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, James McHie, do solemnly swear that I am a qualified elector residing in the Valdez voting precinct, of Valdez recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

JAMES MCHIE.

Subscribed and sworn to before me this 5th day of November, 1918.

ANTHONY J. DIMOND,  
*Notary Public for Alaska.*

My commission expires February 13, 1921.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, John N. White, do solemnly swear that I am a qualified elector residing in the Valdez voting precinct, of Valdez recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

JOHN N. WHITE.

Subscribed and sworn to before me this 5th day of November, 1918.

ANTHONY J. DIMOND,  
*Notary Public for Alaska.*

My commission expires February 13, 1921.

OATH OF OFFICE FOR CLERKS OF MUNICIPALITIES ONLY.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, T. H. Hunt and W. R. Morton, do solemnly swear that we are qualified electors residing in the Valdez voting precinct, of Valdez recording district;

that we will honestly, faithfully, and promptly perform the duties of clerks of election in and for said precinct and district. So help me God.

T. H. HUNT.  
W. R. MORTON.

Subscribed and sworn to before me this 5th day of November, 1918.

ANTHONY J. DIMOND,  
*Notary Public for Alaska.*

My commission expires February 13, 1921.

*Number and names of those voting.*

- |                          |                          |
|--------------------------|--------------------------|
| 1. A. J. Diamond.        | 56. William Stitz.       |
| 2. F. J. Hayes.          | 57. W. S. Frazer.        |
| 3. C. J. Todd.           | 58. Ed Wood.             |
| 4. H. P. Sullivan.       | 59. J. D. Hamilton.      |
| 5. Ralph Wintler.        | 60. C. H. Wilcox.        |
| 6. A. J. Meals.          | 61. Mrs. C. H. Wilcox.   |
| 7. Heber Smith.          | 62. J. A. Silverman.     |
| 8. J. P. Simons.         | 63. Fred Higson.         |
| 9. George Brown.         | 64. Elmer Postal.        |
| 10. James McHie.         | 65. J. A. McGilvray.     |
| 11. H. H. Colin.         | 66. Melvin Kibble.       |
| 12. Nolan Hudson.        | 67. John E. Hughes.      |
| 13. Louis Rosenthal.     | 68. Nick Miscoe.         |
| 14. Mrs. Wm. Whalen.     | 69. Criss Lahz.          |
| 15. Wm. Whalen.          | 70. George Tiffeny.      |
| 16. John N. White.       | 71. John Burns.          |
| 17. T. H. Hunt.          | 72. H. T. Whittely.      |
| 18. Geo. J. Love         | 73. Nick Meckum.         |
| 19. Mrs. E Winter.       | 74. Alex A. Kott.        |
| 20. W. R. Morton.        | 75. A. C. Hoydenpile.    |
| 21. Harry Shutts.        | 76. O. P. Hubbard.       |
| 22. S. O. Casler.        | 77. Mrs. Wm. Connelly.   |
| 23. R. L. Noaks.         | 78. Mrs. C. O. Brauer.   |
| 24. James Willson.       | 79. E. E. Richey.        |
| 25. Adam Swan.           | 80. C. J. Deviney.       |
| 26. Wm. Egan.            | 81. W. H. Brennen.       |
| 27. D. F. Malard.        | 82. Mrs. C. W. Mossman.  |
| 28. A. H. Blair.         | 83. C. W. Mossman.       |
| 29. T. J. Quinn          | 84. H. B. Selby.         |
| 30. Dan Wilsey.          | 85. Oliver Morris.       |
| 31. John Frolick.        | 86. Chas. Howard.        |
| 32. Archie Park.         | 87. Albert Duback.       |
| 33. M. H. Faust.         | 88. John Ruff.           |
| 34. Mrs. Donald H. Tyer. | 89. Mrs. Romar.          |
| 35. J. L. Read.          | 90. Chas. Romar.         |
| 36. James H. Patterson.  | 91. Walter Holland.      |
| 37. Geo. M. Meade.       | 92. R. A. McCulla.       |
| 38. Harrie H. Blgrave.   | 93. Nells Jepson.        |
| 39. Mrs. Rucker.         | 94. Mrs. Hihnala.        |
| 40. W. A. Munley.        | 95. Mrs. Frank Lowe.     |
| 41. Anna S. Barratt.     | 96. John Ekimo.          |
| 42. John H. Bouse.       | 97. Louis Marchall.      |
| 43. John Erickson.       | 98. E. Wheat.            |
| 44. Emil Lains.          | 99. Wm. Sansberry.       |
| 45. Thomas Beasley.      | 100. Harry Hoffman.      |
| 46. R. L. Clifton.       | 101. Rudolph Elmquist.   |
| 47. Mrs. Arthur Lang.    | 102. Mrs. Hoyt.          |
| 48. Arthur Lang.         | 103. W. E. Austen.       |
| 49. William Schrader.    | 104. C. Eagen.           |
| 50. Pert Holmes.         | 105. R. A. Shafer.       |
| 51. Mrs. H. L. Rider.    | 106. Mrs. Ashby.         |
| 52. Mrs. A. S. Jenson.   | 107. Chas. Swanson.      |
| 53. Mrs. John Ekamo.     | 108. R. D. Kelsey.       |
| 54. Mrs. Harry Allen.    | 109. C. B. Smith.        |
| 55. Charles Olsen.       | 110. Mrs. T. J. Donohoe. |

111. Thos. T. J. Donohoe.  
 112. Mrs. John Cook.  
 113. H. Bennett.  
 114. John Cook.  
 115. Charles Copis.  
 116. Lous. Rothkrantz.  
 117. Joe Emmil.  
 118. Randel Ashby.  
 119. Dr. Henry Cockrille.  
 120. Mrs. Henry Cockrille.  
 121. Chas. A. Agnetti.  
 122. Mrs. Al. DeHart.  
 123. Mrs. J. A. Patterson.  
 124. F. R. Brenneman.  
 125. Mrs. F. R. Brenneman.  
 126. Mrs. Fisher.  
 127. Mrs. McGilvrary.  
 128. Mrs. Osland.  
 129. Mrs. Jessie Crawford.  
 130. Tessie Zaroff.  
 131. Mike Zaroff.  
 132. Lars Holland.  
 133. F. O. Bell.  
 134. Mrs. A. M. Bell.  
 135. Dr. Winans, C. A.  
 136. E. A. Dickey.  
 137. Mrs. Bruce Haines.  
 138. Bruce Haines.  
 139. Nick Hihnala.  
 140. Mrs. Andy Deringer.  
 141. Andy Deringer.  
 142. Mrs. Annie Deringer.  
 143. W. F. Lowe.  
 144. James Mitchell.  
 145. Mrs. A. C. Hoydenpile.  
 146. Mrs. James Mitchell.  
 147. Mrs. S. O. Casler.  
 148. Mrs. Chas. Fisher.  
 149. Dr. A. Vongunther.  
 150. Mrs. C. Howard.  
 151. Mrs. Antone Carlson.  
 152. E. Austin.  
 153. Mrs. H. R. Miller.  
 154. Andy Merivich.  
 155. E. E. McDonald.  
 156. J. S. Frazer.  
 157. Mrs. W. J. Cuthbert.  
 158. W. J. Cuthbert.  
 159. John Nonnan.  
 160. W. H. Palmer.  
 161. R. A. W. Krampitz.  
 162. Mrs. Anna Boyd.  
 163. Mrs. Wm. Dolen.  
 164. Hans Stinefeldt.  
 165. J. T. Grouse.  
 166. Wm. Holland.  
 167. M. Gleason.  
 168. J. C. Deringer.  
 169. Mrs. E. Mills.  
 170. Mrs. Annie Austen.  
 171. A. Charles.  
 172. Mrs. M. H. Faust.  
 173. I. Hamburger.  
 174. E. C. Keesler.  
 175. Karlo Hansen.  
 176. Mrs. M. Witherly.  
 177. Guy Cameron.

178. L. A. Decker.  
 179. Rev. E. S. Bollinger.  
 180. Mrs. Lillian Bollinger.  
 181. W. I. Levy.  
 182. B. Silverman.  
 183. D. H. Tyer.  
 184. T. E. Dougherty.  
 185. T. F. Grifeth.  
 186. J. C. Walker.  
 187. Bur M. Snider.  
 188. Dave Olson.  
 189. Wm. Dolen.  
 190. Mrs. H. Hoffman.  
 191. Mrs. A. J. Daimond.  
 192. Mrs. Henry Miller.  
 193. Mrs. M. J. Schmidt.  
 194. Mrs. M. E. Whittley.  
 195. Mrs. W. E. Littlejohn.  
 196. Geo. Butler.  
 197. Mrs. E. B. Wheat.  
 198. John Biggs.  
 199. Dune Ames.  
 200. Mrs. Wm. Egan.  
 201. James Narie.  
 202. Mrs. J. L. Reed.  
 203. M. B. Hamberger.  
 204. Mrs. D. F. Malard.  
 205. Alex Singletary.  
 206. Mrs. M. A. Kelsey.  
 207. Mrs. R. D. Kelsey.  
 208. Jack Ritter.  
 209. S. C. Wheeler.  
 210. Mrs. Wm. Meals.  
 211. Mike Barratt.  
 212. Mrs. A. J. Meals.  
 213. Wm. Meals.  
 214. Ike A. Beal.  
 215. O. Rosenglad.  
 216. Mrs. Guss Djarf.  
 217. Wm. Schmidt.  
 218. Chas. Winzell.  
 219. Harry G. Clifton.  
 220. Harland Vanwick.  
 221. Wm. R. Rogers.  
 222. A. C. Dowling.  
 223. E. Spearsted.  
 224. Mrs. E. Spearsted.  
 225. Mrs. A. C. Dowling.  
 226. Larence Watt.  
 227. Mrs. N. Cudy.  
 228. W. W. Cudy.  
 229. Mrs. J. A. Silverman.  
 230. Mrs. Gans.  
 231. G. Jenner.  
 232. E. A. Sweet.  
 233. Antone Carlson.  
 234. Burt Skinner.  
 235. Annie Burkland.  
 236. Mrs. Burt Skinner.  
 237. Max J. Schmidt.  
 238. Miss Mary Zaroff.  
 239. Robt. Scott.  
 240. Mrs. A. Selby.  
 241. Mathew McGlade.  
 242. E. G. Ames.  
 243. J. M. McDonald.

244. Frank Smith.  
245. Olle Hanson.  
246. J. W. Gilson.  
247. Mrs. I. Levy.  
248. Mrs. M. Horton.  
249. E. F. Pierce.  
250. Otto Elstrom.  
251. Wm. E. Hansell.  
252. Wm. M. Eliot.

253. D. D. Stewart.  
254. H. E. F. King.  
255. Mrs. Teney Wickedell.  
256. Mrs. E. W. Hunt.  
257. E. W. Hunt.  
258. C. R. Odle.  
259. Mrs. R. L. Clifton.  
260. Mrs. W. Eliot.  
261. Mrs. Wm. Smidt.

CERTIFICATE.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss:*

We, James McHie, William R. Morton, John N. White, T. H. Hunt, and Louis Rosenthal, respectively judges and clerks of election, constituting the election board for Valdez voting precinct of the Valdez recording district, or town of Valdez third division, Territory of Alaska, do hereby certify that the within and foregoing election register, containing four written pages, constitutes a true and correct list of all the names of and all data required by law relative to all persons who voted or offered to vote at the election held in said voting precinct, Territory of Alaska, third division, on the 5th day of November, 1918; and that the total number of persons voting thereat was 261; and we do further certify that the said election register was kept and signed in duplicate, as required by statute.

Dated at Valdez, Alaska, this 5th day of November, 1918.

JAMES MCHIE,  
JOHN N. WHITE,  
LOUIS ROSENTHAL,  
*Judges.*  
  
WILLIAM R. MORTON,  
T. H. HUNT,  
*Clerks.*

*For Delegate to Congress.*

Connolly, Francis	8
Sulzer, Charles A	180
Wickersham, James	66

CERTIFICATE OF JUDGES OF ELECTION TO ELECTION RETURNS.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of the result of the November, 1918, election for "Delegate to Congress," "members of the Legislature of the Territory of Alaska," and "road commissioner for the third division, Territory of Alaska," held in the Valdez voting precinct of the Valdez recording district, third division, Territory of Alaska, of which for Delegate to Congress Francis Connolly received 8 votes, Charles A. Sulzer received 180 votes, and James Wickersham received 66 votes.

Dated at Valdez, Alaska, this 5th day of November, 1918.

JAMES MCHIE, *Judge,*  
JOHN N. WHITE, *Judge,*  
LOUIS ROSENTHAL, *Judge,*  
WILLIAM R. MORTON, *Clerk,*  
T. H. HUNT, *Clerk,*  
*Election Board.*

EXHIBIT D.

Duplicate primary election register and tally book for Copper Center voting precinct, Copper Center recording district, division No. 3, Territory of Alaska, April 30, 1918.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct



copy of the original duplicate primary election register and tally book for Copper Center voting precinct, for the primary election held April 30, 1918, in so far as the same relates to the election of a Delegate to Congress from Alaska, as the same appears on file and of record in my office.

In testimony whereof I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LONG, *Clerk.*

OATHS OF OFFICE TO BE TAKEN BY JUDGES OF ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, Ringwald Blix, do solemnly swear that I am a qualified elector residing in the Copper Center voting precinct, Copper Center recording district; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

RINGWALD BLIX,  
*Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

C. PARKER SMITH,  
*United States Commissioner.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, Chas. Cowell, do solemnly swear that I am a qualified elector residing in the Copper Center voting precinct, Copper Center recording district; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

CHAS. COWELL,  
*Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

C. PARKER SMITH,  
*United States Commissioner.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, Sam W. Taylor, do solemnly swear that I am a qualified elector residing in the Copper Center voting precinct, Copper Center recording district; that I will support the Constitution of the United States; and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

SAM W. TAYLOR,  
*Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

[SEAL.]

C. PARKER SMITH,  
*United States Commissioner.*

No.	Name.	Residence.	Party.	Voted.
1	W. R. Cameron.....	Trail.....	Democrat.....	Yes.
2	C. Parker Smith.....	Copper Center.....	do.....	Yes.
3	Sam W. Taylor.....	do.....	do.....	Yes.
4	Ringwald Blix.....	do.....	Republican.....	Yes.
5	Chas. Cowell.....	Valdez.....	Democrat.....	Yes.
6	Hurman Du Marce.....	Copper Center.....	do.....	Yes.
7	M. F. Griffith.....	do.....	do.....	Yes.
8	Hans Pitman.....	do.....	do.....	Yes.
9	John McCrary.....	do.....	do.....	Yes.
10	Frances Blix.....	do.....	do.....	Yes.
11	T. R. Glass.....	do.....	do.....	Yes.
12	Chas. Romohr.....	Valdez.....	do.....	Yes.
13	Chas. Lindgreen.....	Chitina.....	do.....	Yes.
14	Elizabeth Griffith.....	Copper Center.....	do.....	Yes.
15	J. B. Pippin.....	do.....	do.....	Yes.
16	H. Baker.....	Trail.....	Republican.....	Yes.
17	Richard McNally.....	do.....	Democrat.....	Yes.
18	Max B. Tifer.....	Copper Center.....	do.....	Yes.

## CERTIFICATE.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, Ringwald Blix, Chas. Cowell, and Sam W. Taylor, respectively, judges of election, constituting the election board for Copper Center voting precinct of the Copper Center recording district, third division, Territory of Alaska, do hereby certify that the within and foregoing election register, containing one written page, constitutes a true and correct list of all the names of and all data required by law relative to all persons who voted or offered to vote at the primary election held in said voting precinct, Territory of Alaska, third division, on the 30th day of April, 1918, and that the total number of persons voting was 18.

RINGWALD BLIX,  
CHAS. COWELL,  
SAM W. TAYLOR,  
*Judges.*

Dated at Copper Center, Alaska, this 30th day of April, 1918.

*For Delegates from Alaska, Democratic Party.*

Maloney, William -----	0
Sulzer, Charles A. -----	17

## CERTIFICATE OF RESULTS—DEMOCRATIC PRIMARY ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results, of the primary election held April 30, 1918, to elect candidates for Delegate from Alaska, and for members of the Legislature of the Territory of Alaska and for road commissioner, road district, No. 3, held in the Copper Center voting precinct, of the Copper Center recording district, third division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Democratic Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows, to-wit:

For Delegate from Alaska: William Maloney, none; Charles A. Sulzer, 17. Number of ballots totally blank cast, none; total number of ballots cast, 16.

RINGWALD BLIX,  
CHAS. COWELL,  
SAM W. TAYLOR,  
*Election Board.*

Dated at Copper Center, Alaska, this 30th day of April, 1918.

*For Delegate from Alaska, Republican Party.*

Wickersham, James -----	1
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## CERTIFICATE OF RESULTS—REPUBLICAN PRIMARY ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results of the primary election held April 30, 1918, to elect candidates for Delegate from Alaska, and for members of the Legislature of the Territory of Alaska and for road commissioner, road district No. 3, held in the Copper Center voting precinct, of the Copper Center recording district, third division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Republican Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows, to-wit:

For Delegate from Alaska: James Wickersham, 1. Number of ballots totally blank cast, none; total number of ballots cast, 2.

RINGWALD BLIX,  
CHAS. COWELL,  
SAM W. TAYLOR,  
*Election Board.*

Dated at Copper Center, Alaska, this 30th day of April, 1918.

## CERTIFICATE OF RESULTS, PRIMARY ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results of the primary election held April 30, 1918, to elect candidates for Delegate from Alaska, and for members of the Legislature of the Territory of Alaska and for road commissioner, road district No. 3, held in the Copper Center voting precinct of the Copper Center recording district, third division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows, to wit:

For Delegate from Alaska: Charles A. Sulzer received 17; James Wickersham received 1. Total number of ballots cast, 18.

RINGWALD BLIX,  
CHAS. COWELL,  
SAM W. TAYLOR.

*Election Board.*

Dated at Copper Center, Alaska, this 30th day of April, 1918.

## EXHIBIT E.

Election register and tally book for November, 1918, election for Delegate to Congress, Members to the Legislature of the Territory of Alaska, and road commissioner for the third judicial division of Alaska, Copper Center voting precinct in the Chitina recording district, Territory of Alaska, Third Division.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the district court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct copy of the original election register and tally book for November 5, 1918, election, held at Copper Center, Chitina recording district, in so far as the same relates to the election of Delegate to Congress from Alaska, as the same appears on file and of record in my office.

In testimony whereof I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LANG, *Clerk.*

## OATHS OF OFFICE TO BE TAKEN BY JUDGES OF ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, T. R. Glass, do solemnly swear that I am a qualified elector residing in the Copper Center voting precinct of Chitina recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

T. R. GLASS.

Subscribed and sworn to before me this 5th day of November, 1918.

[SEAL.]

CHAS. COWELL,  
*Duly Authorized Judge of Election.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, Charles Cowell, do solemnly swear that I am a qualified elector residing in the Copper Center voting precinct of Chitina recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

CHAS. COWELL.

Subscribed and sworn to before me this 5th day of November, 1918.

[SEAL.]

T. R. GLASS,  
*Duly Authorized Judge of Election.*

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division ss:

I, Alva Larson, do solemnly swear that I am a qualified elector residing in the Copper Center voting precinct of Chitina recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

ALAVE LARSON.

Subscribed and sworn to before me this 5th day of November, 1918.

[SEAL.] T. R. GLASS,  
Duly Authorized Judge of Election.

Number of persons voting.	Names of voters.	Voted.	Number of persons voting.	Names of voters.	Voted.
1	Chas. Cowell.....	X	6	John McCrary.....	X
2	T. R. Glass.....	X	7	M. F. Griffith.....	X
3	Alave Larson.....	X	8	James Mank.....	X
4	C. W. Littlejohn.....	X	9	Herman Dumarce.....	X
5	J. B. Pippin.....	X	10	W. R. Cameron.....	X

CERTIFICATE.

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division, ss:

We, T. R. Glass, Chas. Cowell, and Alave Larson, respectively judges and clerks of election, constituting the election board for Copper Center voting precinct, of the Chitina recording district, third division, Territory of Alaska, do hereby certify that the within and foregoing election register, containing one written page, constitutes a true and correct list of all the names of and all data required by law relative to all persons who voted or offered to vote at the election held in said voting precinct, Territory of Alaska, third division, on the 5th day of November, 1918; and that the total number of persons voting thereat was 10. And we do further certify that the said election register was kept and signed in duplicate, as required by statute.

Dated at Copper Center, this 5th day of November, 1918.

T. R. GLASS,  
CHAS. COWELL,  
ALAVE LARSON,  
Judges.

For Delegate to Congress:  
Connolly, Francis..... 0  
Sulzer, Charles A..... 10  
Wickersham, James..... 0

CERTIFICATE OF JUDGES OF ELECTION TO ELECTION RETURNS.

UNITED STATES OF AMERICA,  
Territory of Alaska, Third Division, ss:

We, the undersigned, hereby certify that the following is a true and correct certificate of the result of the November, 1918, election for Delegate to Congress, members of the Legislature of the Territory of Alaska, and road commissioner for the third division, Territory of Alaska, held in the Copper Center voting precinct of the Chitina recording district, third division, Territory of Alaska, of which for Delegate to Congress Francis Connolly received no votes, Charles A. Sulzer received 10, and James Wickersham received no votes.

Dated at Copper Center, Alaska, this 5th day of November, 1918.

T. R. GLASS,  
CHAS. COWELL,  
ALAVE LARSON,  
Election Board.

## EXHIBIT F.

Duplicate primary election register and tally book for Sourdough voting precinct, Copper Center recording district, division No. 3, Territory of Alaska, April 30, 1918.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct copy of the original duplicate primary election register and tally book for Sourdough voting precinct, Copper Center recording district, April 30, 1918, as the same appears on file and of record in my office.

In testimony whereof, I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LANG, *Clerk.*

OATHS OF OFFICE TO BE TAKEN BY JUDGES OF ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, F. A. Lamson, do solemnly swear that I am a qualified elector residing in the Sourdough voting precinct, of Copper Center recording district; that I will support the Constitution of the United States and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

F. A. LAMSON,  
*Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

GABE ASPLUND,  
*Judge of Election.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, Gabe Asplund, do solemnly swear that I am a qualified elector residing in the Sourdough voting precinct, of Copper Center recording district; that I will support the Constitution of the United States and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

GABE ASPLUND,  
*Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

F. A. LAMSON,  
*Judge of Election.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 3, ss:*

I, Mrs. Ida Taft, do solemnly swear that I am a qualified elector residing in the Sourdough voting precinct, of Copper Center recording district; that I will support the Constitution of the United States and that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

MRS. IDA TAFT,  
*Election Judge.*

Subscribed and sworn to before me this 30th day of April, 1918.

F. A. LAMSON,  
*Judge of Election.*

Number.	Name.	Residence.	Party.	Voted.
1	Gabe Asplund.....	Our Home.....	Republican...	Yes.
2	F. A. Lamson.....	Sourdough.....	do.....	Yes.
3	Mrs. N. Yager.....	do.....	do.....	Yes.
4	Mrs. Ida Taft.....	do.....	do.....	Yes.



*For delegate from Alaska, Republican Party.*

Wickersham, James----- 4

## CERTIFICATE OF RESULTS—REPUBLICAN PRIMARY ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results, of the primary election held April 30, 1918, to elect candidates for Delegate from Alaska, and for members of the Legislature of the Territory of Alaska and for road commissioner, road district No. 3, held in the Sourdough voting precinct, of the Copper Center recording district, Third division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Republican Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective officers received votes as follows, to wit: For Delegate from Alaska, James Wickersham received 4 votes.

F. A. LAMSON,  
GABE ASPLUND,  
Mrs. IDA TAFT,  
*Election Board.*

Dated at Sourdough this 30th day of April, 1918.

## CERTIFICATE OF RESULTS—PRIMARY ELECTION.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

We, the undersigned, hereby certify that the following is a true and correct certificate of results, of the primary election held April 30, 1918, to elect candidates for Delegate from Alaska, and for members of the Legislature of the Territory of Alaska and for road commissioner, road district No. 3, held in the Sourdough voting precinct, of the Copper Center recording district, Third division, Territory of Alaska.

Of the total number of ballots cast in said precinct by the Democratic Party, including ballots totally blank, as shown by the foregoing tally book, the several candidates for the respective offices received votes as follows to wit: For Delegate from Alaska, James Wickersham received 4 votes.

F. A. LAMSON,  
GABE ASPLUND,  
Mrs. IDA TAFT,  
*Election Board.*

Dated at Sourdough this 30th day of April, 1918.

## EXHIBIT G.

Election register and tally book for November, 1918, election for Delegate to Congress, members to the Legislature of the Territory of Alaska, and road commissioner for the third judicial division of Alaska, Sourdough voting precinct, in the Chitina recording district, Territory of Alaska, third division.

UNITED STATES OF AMERICA.

*Territory of Alaska, third division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct copy of the original election register and tally book for November 5, 1918, election held at Sourdough, Chitina recording district, in so far as the same relates to the election of Delegate to Congress from Alaska, as the same appears on file and of record in my office.

In testimony whereof I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 22d day of August, 1919.

[SEAL.]

ARTHUR LANG, Clerk.

OATHS OF OFFICE TO BE TAKEN BY JUDGES OF ELECTION.

UNITED STATES OF AMERICA,  
*Territory of Alaska, third division, ss:*

I, Mrs. E. Griffith, do solemnly swear that I am a qualified elector residing in the Sourdough voting precinct of Chitina recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

Mrs. E. GRIFFITH.

Subscribed and sworn to before me this 5th day of November, 1918.

J. F. DOYLE,  
*Judge of Election.*

UNITED STATES OF AMERICA,  
*Territory of Alaska, third division, ss:*

I, J. F. Doyle, do solemnly swear that I am a qualified elector residing in the Sourdough voting precinct of Chitina recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

J. F. DOYLE.

Subscribed and sworn to before me this 5th day of November, 1918.

Mrs. E. GRIFFITH,  
*Judge of Election.*

UNITED STATES OF AMERICA,  
*Territory of Alaska, third division, ss:*

I, Homer W. Olts, do solemnly swear that I am a qualified elector residing in the Sourdough voting precinct of Chitina recording district; that I will honestly, faithfully, and promptly perform the duties of judge of election in and for said precinct and district. So help me God.

HOMER W. OLTS.

Subscribed and sworn to before me this 5th day of November, 1918.

Mrs. E. GRIFFITH,  
*Judge of Election.*

Num-ber of per-sons vot-ing.	Names of voters.	Voted.	Num-ber of per-sons vot-ing.	Names of voters.	Voted.
1	Aanna Leak.....	X	8	Elizabeth Griffith.....	X
2	Hans Dltman.....	X	9	Homer W. Olts.....	X
3	George Francis.....	X	10	Phil Berall.....	X
4	James A. Ellison.....	X	11	J. A. Graham.....	X
5	Gabe Asplund.....	X	12	F. A. Lamson.....	X
6	Lucy Ellison.....	X	13	G. B. Rorer.....	X
7	J. F. Doyle.....	X			

CERTIFICATE.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss.*

We, Mrs. E. Griffith, J. F. Doyle, and Homer W. Olts, respectively judges and clerks of election, constituting the election board for Sourdough voting precinct of the Chitina recording district, third division, Territory of Alaska, do hereby cer-tify that the within and foregoing election register, containing ----- written pages, constitutes a true and correct list of all the names of and all data required by law relative to all persons who voted or offered to vote at the election held in said voting precinct, Territory of Alaska, third division, on the 5th day of No-vember, 1918; and that the total number of persons voting thereat was 13; and we do further certify that the said election register was kept and signed in duplicate, as required by statute.

Dated at Gulkana, this 5th day of November, 1918.

Mrs. E. GRIFFITH,  
J. F. DOYLE,  
HOMER W. OLTS,  
*Judges.*

*For Delegate to Congress.*

Connolly, Francis.....	0
Sulzer, Charles A.....	7
Wickersham, James .....	5

CERTIFICATE OF JUDGES TO ELECTION RETURNS.

UNITED STATES OF AMERICA,  
*Territory of Alaska, Third Division, ss.*

We, the undersigned, hereby certify that the following is a true and correct certificate of the result of the November, 1918, election for Delegate to Congress, members of the Legislature of the Territory of Alaska, and road commissioner for the third division, Territory of Alaska, held in the Sourdough voting precinct of the Chitina recording district, third division, Territory of Alaska, of which for Delegate to Congress, Francis Connolly received no votes; Charles A. Sulzer received 7 votes, and James Wickersham received 5 votes.  
Dated at Gulkana, Alaska, this 5th day of November, 1918.

Mrs. E. GRIFFITH,  
J. F. DOYLE,  
HOMER W. OLTS,  
*Election Board.*

EXHIBIT H.

UNITED STATES OF AMERICA, TERRITORY OF ALASKA,  
*Third Division, ss:*

I, Arthur Lang, clerk of the district court for the Territory of Alaska, third division, do hereby certify that on the 16th day of July, 1918, I forwarded by registered mail, in one package, all election supplies, except the official ballots, for the November 5, 1918, election, for the voting precincts of Choggiung and Nushagak, in the Bristol Bay recording district, third division of the Territory of Alaska, to Dr. L. H. French, United States commissioner, Dillingham, Alaska; that on August 25, 1918, I forwarded by registered mail, in one package, the official ballots for said voting precincts, addressed to said commissioner at Dillingham, Alaska.  
That after the date of said election, to wit, on March 24, 1919, I received from the election judges at Choggiung, Alaska, one registration book and one election register and tally book, giving the official result of the votes cast in the Choggiung voting precinct, in said recording district, division, and Territory, at said election; that attached to said election register and tally book was a certificate of the judges of election, duly signed by each of said judges, as follows, to wit:

CERTIFICATE OF JUDGES OF ELECTION OF FACTS PREVENTING USE OF OFFICIAL BALLOTS.

We, the undersigned, constituting the duly qualified election judges of Choggiung voting precinct, of Bristol Bay recording district, of the third division, Territory of Alaska, serving for the election held November 5, 1918, do hereby certify that no official ballots were received by us, or any of us, for use at said election; and for that reason the voters at said election in this precinct were permitted to write or print their ballots, as provided by section 21 of chapter 25, Session Laws of Alaska, 1915; and return is made accordingly.  
J. C. LOWE,  
VICTOR OWNBY,  
L. D. NIELSEN,  
*Judges of Election.*

And I do further certify that no returns were received in this office from the Nushagak voting precinct, in said recording district, division, and Territory.  
In witness whereof, I have hereunto subscribed my name and affixed the seal of said court this 7th day of May, 1919.  
[SEAL.] ARTHUR LANG, *Clerk.*

In witness whereof, I hereby subscribe my name and affix the seal of this court this 28th day of August, 1919.  
[SEAL.] ARTHUR LANG, *Clerk.*

## EXHIBIT I.

UNITED STATES OF AMERICA, TERRITORY OF ALASKA.

Valdez Precinct, ss:

*To D. H. Tyer, Mrs. Donald H. Tyer, and Capt. Charles L. Hewes:*

You are hereby required that, all and singular, business and excuses being set aside, you appear and attend before the undersigned, Joseph L. Reed, a notary public in and for the Territory of Alaska, at his office in Valdez, Alaska, on the 23d day of August, 1919, at the hour of 11 o'clock in the forenoon of said day, then and there to be examined on oath respecting the matters in issue in the contested-election case of Wickersham v. Sulzer and Grigsby, and if you refuse and neglect to attend and testify as above required you will be subject to penalty and liable to indictment as prescribed by section 116, chapter 8, Revised Statutes of the United States, 1878.

Witness my hand and notarial seal this 22d day of August, 1919.

[SEAL.]

J. L. REED,

*Notary Public in and for the Territory of Alaska.*

My commission expires April 28, 1922.

## EXHIBIT J.

*To George B. Grigsby and A. J. Dimond, his agent, for contestee:*

You are hereby notified that the depositions of D. H. Tyer, Mrs. Donald H. Tyer, and Capt. Charles L. Hewes, the two former now being in Valdez, Alaska, and Capt. Hewes in Fort Liscum, Alaska, will be taken before Joseph L. Reed, Esq., a notary public in and for the Territory of Alaska, at his office in Valdez, Alaska, beginning at the hour of 11 o'clock a. m. on the 23d day of August, 1919, the same to be used in evidence in the above entitled proceeding on behalf of the contestant, the taking of the said depositions will be continued until the same are completed. You are notified to be present and cross-examine the said witnesses.

Dated this 22d day of August, 1919.

JAMES WICKERSHAM, *Contestant.*

## EXHIBIT K.

*To George B. Grigsby, contestee, and A. J. Dimond, his agent:*

You are hereby notified that the depositions of E. P. Cashman, Mrs. E. P. Cashman, W. S. Beck, Sam Campbell, Walter Stuart, E. E. Ritchie, J. P. Simons, I. Hamburger, James Wickersham, James McHie, C. B. Smith, and each of them will be taken before Joseph L. Reed, Esq., a notary public in and for the Territory of Alaska, at his office on the wharf in the town of Valdez, Alaska, beginning at the hour of 10 o'clock a. m. on the 28th day of August, 1919, the same to be read in evidence in the above entitled proceeding on behalf of the said James Wickersham, contestant, and that the taking of said depositions would be continued from day to day thereafter and over Sundays and other holidays, if any, until the taking of the same shall have been completed.

You are requested to be present to take such action as you may deem advisable.

Dated this 23d day of August, 1919.

JAMES WICKERSHAM, *Contestant.*

Served by delivery of copy admitted this 26th day of August, 1919.

A. J. DIMOND,

*Agent for George B. Grigsby.*

## EXHIBIT N.

## ROSTER OF DEPOT COMPANY F, SIGNAL CORPS. DECEMBER 31, 1916, GIVING STATIONS AND DUTIES.

## Master signal electricians:

Hamilton, Isaac, Seattle, storekeeper.  
Smith, Joseph, Seattle, cashier.  
Murphy, Charles, Seattle, chief operator.  
Loghry, Robert, Fairbanks, O. I. C.  
Perry, John A., Sitka, O. I. C.  
Faust, Max H., Valdez, chief operator.  
Patton, Robert L., Cordova, O. I. C.

## Sergeants, first class:

Roberts, Charles F., Juneau, O. I. C.  
Barrett, Charles, Sitka, cable operator.  
Murphy, Lee, Seward, O. I. C.  
Conway, Joseph P., Valdez, operator.  
Rose, Luther I., Seattle, cable operator.  
Perry, Willis O., Sitka, cable operator.  
Lacey, Paul C., Seattle, cable operator.  
Hoeppe, John H., Sitka, cable operator.  
McQuillan, Philip F., Ketchikan, O. I. C.  
Mooney, William L., Valdez, cable operator.  
Egan, James, Seattle, clerk.  
Perkins, Thomas P., Fort Ward, O. I. C.  
Pittman, Delbert D., Valdez, cashier.  
Gilbert, William B., Seattle, cable operator.  
Keys, Walter, Sitka, cable operator.  
Little, Charles A., Seattle, assistant storekeeper.  
Gough, Arthur W., Seattle, cable operator.  
Williams, Clyde B., Juneau, cable operator.  
Worley, James W., Burnside, cable work.  
Palmer, Alvin R., Seattle, clerk.  
Brogan, William H., first section, line inspector.  
Kirk, Jones H., Valdez, acting first sergeant.  
Lynch, John E., Seward, cable operator.  
Conklin, Harry W., Sitka, cable operator.

## Sergeants:

McNurney, Michael A., Wrangell, O. I. C.  
Crawford, Arthur W., Wrangell, operator.  
Hill, Benjamin F., Burnside, radio operator.  
Barbee, Edward B., Seattle, cable operator.  
Cable, Samuel H., Sitka, cable operator.  
Sigmon, David S., Juneau, cable operator.  
Geoghegan, Nicholas J., Fort Lawton, O. I. C.  
Jandorf, Jesse R., Seattle, cable operator.  
Billings, Wesley J., Valdez, clerk.  
Maxwell, David, Salcha, O. I. C.  
Kirby, Horace W., Valdez, cable operator.  
Simkins, James L., Seattle, clerk.  
Higginbotham, Watt G., Hadley, O. I. C.  
Gartrell, Theophilus E., Seattle, clerk.  
Coleman, James G., Fairbanks, operator.  
Lee, Robert H., Seattle, clerk.  
Stebbins, Dutton L., Sitka, cable operator.  
Montgomery, Ellis R., Seward, cable operator.  
Hague, James E., Seattle, assistant auditor.  
Sanford, Homer A., Skagway, O. I. C.  
Wardell, Lloyd L., Sitka, cable operator.  
Quist, Jesper S. M., Juneau, cable operator.  
Irvine, Harry W., Douglas, O. I. C.  
Bethea, Jap F., Seattle, clerk.



**Corporals:**

Kinlock, Ernest P., Teikhell, O. I. C.  
 Shutts, Harry, Fairbanks, engineer.  
 Scanland, Louis W., Haines, O. I. C.  
 Custer, Theodore, Seattle, cable student.  
 McLaughlin, William W., Petersburg, O. I. C.  
 Whitman, Horace W., Sitka, cable operator.  
 DeLong, Leonard J., Seattle, clerk.  
 Sterling, Cyril S., Valdez, cable operator.  
 Noaks, Richard H. L., Copper Center, O. I. C.  
 Snyder, Burr M., Sitka, cable operator.  
 Hardman, Robert L., Sitka, cable operator.  
 Woofter, Clarence J., Juneau, cable operator.  
 Guthridge, Walter M., Seattle, cable operator.  
 Hawley, Guy B., Seattle, cable operator.  
 Kott, Alex A., Ketchikan, operator.  
 Ayers, Thomas E., Valdez, storekeeper.  
 Downer, Arthur J., Wrangell, operator.  
 Pegues, John E., Fairbanks, operator.  
 Rowbottom, Henry T., Valdez, lineman.  
 Blanchette, Charles L., Paxson, O. I. C.  
 McNally, Richard, McCallum, O. I. C.  
 Trenker, Joseph, Donnelly, O. I. C.  
 Elmquist, Rudolph, Valdez, cable student.  
 Boardman, Fay, Hogan, O. I. C.  
 Johns, Clarence M., Richardson, O. I. C.  
 Harper, Leon F., Seattle, cable operator.  
 Motyka, John J., Valdez, cable student.  
 Rogers, William R., Fort Liscum, O. I. C.

**Privates, first class:**

Agnetti, Charles A., Fairbanks, operator.  
 Barnes, Nathan J., Burnside, radio operator.  
 Beal, Ike A., Cordova, operator.  
 Beran, Paul, Paxson, lineman.  
 Blackburn, Felton E., Valdez, cable student.  
 Botway, Abraham M., Valdez, cable student.  
 Clifton, Howard G., Haines, operator.  
 Cummins, Ralph N., Seattle, cable student.  
 Davis, Thomas H., Teikhell, O. I. C.  
 Ellison, Anderson, Gulkana, O. I. C.  
 Field, Clyde T., Tonsina, O. I. C.  
 Foster, Austin L., Fairbanks, operator.  
 Gilpin, William, Fairbanks, operator.  
 Griffin, Thomas G., Fairbanks, operator.  
 Grossbard, David, Wortman, O. I. C.  
 Gudzewaty, Nicholas V., "Dix," radio operator.  
 High, Benjamin V., Seward, cable operator.  
 Hocker, Durwood M., Fairbanks, engineer.  
 Hoots, Roy, Thompson Pass, O. I. C.  
 Kirby, William A., Fairbanks, lineman.  
 Lee, Roger W., Burnside, radio operator.  
 Lines, Hoxie H., Beaver Dam, O. I. C.  
 Loder, Daniel E., Fort Liscum, lineman.  
 McLaughlin, Harry W., McCarty, O. I. C.  
 Meyerson, Raphael, Fairbanks, operator.  
 Neining, Frank J., Valdez, lineman.  
 Nicholas, Warren, Cordova, messenger.  
 Richards, Jasper R., Burnside, radio operator.  
 Searce, Robert L., Valdez, cable operator.  
 Schulze, William F., Valdez, lineman.  
 Selman, William M., Fort Worden, O. I. C.  
 Shell, Loy W., "Dix," O. I. C.  
 Stenbuck, Herman B., Fairbanks, operator.  
 Tubbs, Cary L., Juneau, cable operator.  
 Whipple, William E., Hogan, lineman.

ROSTER OF DEPOT COMPANY G, SIGNAL CORPS, DECEMBER 31, 1918, GIVING STATIONS AND DUTIES.

Master signal electrician: Inman, William H., Nome, O. I. C. radio.

Sergeants, first class:

Collins, Ambrose S., Gibbon, acting first sergeant.  
 Stolze, Charles W., Gibbon, property clerk.  
 Rector, Van B., Melozi, line inspector.  
 Kyttle, Luther, St. Michael, O. I. C.  
 Sherlock, John O., Gibbon, company clerk.  
 Mulkins, Chester B., Nenana, O. I. C.  
 Grantham, Raymond A., Nome, O. I. C., city.

Sergeants:

Murphy, Charles B., Fort Egbert, O. I. C.  
 Campbell, James M., Gibbon, line inspector.  
 Hainline, Richard L., Fort Yukon, O. I. C.  
 Gilmore, Lee, Gibbon, storekeeper.  
 Barr, William T., Hot Springs, O. I. C.  
 Helms, Sidney L., Circle, O. I. C.  
 Copley, Gilmer W., Letterman General Hospital, sick.  
 Munson, Samuel H., Nulato, O. I. C.

Corporals:

Sanford, Thomas E., Gibbon, sick. hospital.  
 Price, Charles D., Nome, operator, city.  
 Hanson, Leonard, Nulato, radio engineer.  
 Bell, Myron O., Nenana, line inspector.  
 Anderson, James H., St. Michael, operator.  
 Rohling, Arthur H., Fort Yukon, radio engineer.  
 Wescott, Howard G., Nulato, operator.  
 Pedersen, Albert E., Loudon, O. I. C.  
 Dehas, Walter H., Gibbon, chief operator and cashier.  
 Winkler, Frank C., Gibbon, clerk.  
 Hamby, George W., Gibbon, operator.  
 Barnett, George S., Fort Egbert, radio engineer.  
 Curlee, James W., Melozi, O. I. C.

Cook, Selk, Louis G., Gibbon, cook.

Privates, first class:

Barnett, George W., Nulato, operator.  
 Belcher, William N., Nulato, lineman.  
 Belgard, John E., Nome, radio operator.  
 Boon, James W., St. Michael, operator.  
 Champlain, John H., St. Michael, operator.  
 Edwards, John C., Eureka, O. I. C.  
 Finley, Claude, Nulato, operator.  
 Fitzwilliams, Basil, Gibbon, assistant storekeeper.  
 Freeman, William N., St. Michael, operator.  
 Gray, Eugene H., Nome, radio operator.  
 Growden, William N., Koyukuk, O. I. C.  
 Helms, Nathan, Gibbon, lineman.  
 Hendrix, George R., Rampart, O. I. C.  
 Holliday, Richard C., Melozi, operator.  
 Hildebrand, John G., Nulato, lineman.  
 Huhndorf, Max F., Kokrines, O. I. C.  
 Hull, Roy, Gibbon, messenger.  
 Humble, Elmer H., St. Michael, radio engineer.  
 Kaiser, Henry S., Birches, O. I. C.  
 Kennedy, Elbert S., Chena, O. I. C.  
 Labrie, Isidore, Fort Egbert, operator.  
 Lake, James P., Nulato, operator.  
 Matthews, Thomas E., Gibbon, operator.  
 MacDowell, James S., Fort Egbert, operator.  
 McLeod, Elwin, Nulato, clerk.  
 McQueen, Auris W., Gibbon, operator.  
 Modeweg, Axel W., Gibbon, engineer.  
 Owen, Thomas J., Nome, radio engineer.

**Privates, first class—Continued.**

Peppersack, Barney R., Fort Egbert, operator.  
Rippberger, Myron, Nome, radio operator.  
Rothacher, Norman W., Nome, radio operator.  
Roy, William, Fort Davis, O. I. C.  
Stroupe, Clement C., Nulato, operator.  
Swenson, John A., Tolovana, O. I. C.  
Toland, Edward J., Gibbon, lineman.  
Tyler, Andrew V., Nenana, operator.  
Young, Glenn, Gibbon, assistant property clerk.

**Privates:**

Bridgewater, Sidney, Gibbon, watchman.  
Legler, Lester B, Gibbon, lineman.  
Wilson, Ralph O., Gibbon, dog teamster.

EXHIBIT O.

Official returns of the election of Delegate from Alaska, members of the fourth Territorial Legislature, and road commissioner, held Nov. 5, 1918.

FIRST DIVISION.

Precinct.	Delegate.			Legislature.										Road commis- sioner.			Scattering.	Total votes cast.	
				Senate.		House.													
	Connelly, Francis.	Sulzer, Chas. A.	Wickersham, James.	Britt, William.	Johanson, Crist.	Russell, Ed. C.	Casey, W. W.	Connors, Jas. J.	Davies, John H.	Holstad, I. M.	McCormack, Peter C.	Shepard, H. R.	Soworby, Isaac.	White, E. J.	Winn, Grover C.	Arness, Ojal.			Wiley, Perry J.
Baranoff (Warm Springs)	.....	10	4	4	.....	10	6	8	5	1	5	5	9	4	8	1	10	2	14
Beaver Falls	.....	7	6	10	.....	1	1	6	12	.....	5	.....	7	10	7	1	7	3	13
Charcoal Point	3	45	42	40	14	26	33	32	56	17	37	.....	26	31	28	10	31	26	90
Chichagof	.....	36	10	29	4	11	26	21	14	2	19	14	33	20	15	4	35	6	48
Chileat	.....	5	4	4	.....	5	7	6	3	.....	4	2	6	5	3	.....	6	2	11
Craig	.....	50	47	53	5	29	59	53	29	17	37	18	56	45	25	13	44	23	197
Dolomi	.....	1	4	1	.....	2	1	3	3	.....	2	1	1	1	2	.....	1	3	5
Douglas No. 1	9	45	52	41	16	43	49	41	46	12	43	40	46	74	47	11	35	55	109
Douglas No. 2	5	19	21	16	8	16	18	15	15	5	13	14	15	24	18	3	9	23	45
Gold and Salmon Creek	.....	4	12	4	1	10	3	6	5	2	18	6	6	7	8	1	9	6	16
Hadley	1	4	6	7	1	2	7	8	3	1	1	2	7	6	3	1	5	3	12
Haines	3	40	49	32	8	45	36	37	39	8	41	30	47	40	36	7	38	34	94
Hoonah	.....	6	10	9	2	4	7	3	10	3	3	7	11	6	6	3	7	3	16
Hyder	.....	5	5	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	10
Jualpa	1	6	2	6	.....	2	5	5	4	.....	2	.....	6	5	2	.....	6	3	9
Juneau No. 1	3	266	195	261	12	170	242	229	155	12	160	198	260	250	195	16	223	149	473
Juneau No. 2	3	120	132	107	4	135	112	117	96	16	106	111	127	106	127	13	106	89	261
Juneau No. 3	1	45	51	46	3	41	51	45	32	11	37	29	53	42	40	14	39	28	99
Kake	.....	5	1	3	.....	3	6	3	1	.....	3	1	5	3	1	.....	5	1	6
Kasaan	.....	8	9	6	3	2	5	7	6	4	6	5	6	4	5	2	3	4	15
Ketchikan	5	184	277	163	20	211	135	107	339	33	209	138	147	110	213	21	114	195	475
Loring	.....	13	12	12	5	8	14	9	15	6	4	1	15	7	6	5	5	2	25
Mendenhall	.....	6	5	4	.....	7	4	2	5	.....	4	6	2	6	6	.....	4	6	11
Perseverance	3	19	15	16	4	.....	17	17	11	5	12	12	14	18	14	3	15	14	37
Petersburg	4	40	73	69	13	32	34	36	64	35	.78	31	47	37	40	47	26	30	117

<sup>1</sup> Estimated from vote cast for Delegate.

FIRST DIVISION—Continued.

Precinct.	Delegate.			Legislature.										Road commis- sioner.			Scattering.	Total votes cast.
	Connelly, Francis.	Sulzer Chas. A.	Wickersham, James.	Senate.		House.												
				Britt, William.	Johanson, Crist.	Russell, Ed. C.	Casey, W. W.	Conners, Jas. J.	Davies, John H.	Holstad, I. M.	McCormack, Peter C.	Shepard, H. R.	Bowerby Isaac.	White, E. J.	Wind, Grover C.			
Port Walter.....	.....	4	2	4	1	6	3	2	.....	3	1	4	2	3	3	3	.....	6
Scow Bay.....	4	.....	9	4	1	2	3	5	12	8	2	4	3	.....	1	10	.....	15
Sheep Creek.....	.....	89	24	79	3	75	67	32	3	25	33	81	84	28	28	10	.....	119
Sitka.....	3	74	39	65	7	66	58	39	11	33	23	62	56	27	7	28	.....	118
Skagway.....	.....	93	46	104	3	75	70	44	2	42	26	92	110	42	3	33	1	143
Sulzer.....	.....	40	3	37	3	33	33	3	2	4	1	31	34	2	1	2	.....	43
Tenakee.....	.....	19	10	17	1	18	17	11	1	10	6	14	20	7	3	5	.....	29
Treadwell.....	.....	27	32	21	5	28	26	16	2	22	21	35	47	20	3	43	.....	59
Windham Bay.....	.....	4	.....	3	1	2	2	2	.....	1	.....	4	2	.....	.....	1	.....	4
Wrangell.....	3	43	115	50	9	82	49	38	76	18	117	43	46	74	17	63	.....	164
Token.....	.....	11	2	5	.....	8	3	4	6	.....	11	5	2	7	.....	5	.....	13
Total.....	51	1,391	1,326	1,334	164	1,038	1,325	1,135	1,204	242	1,122	852	1,333	1,267	1,066	910	13	2,821



SECOND DIVISION.

Bethel.....	.....	3	28	11	14	17	7	10	8	13	17	13	2	8	11	10	4	1	.....	31
Bluff.....	1	6	5	4	8	6	6	11	1	5	1	3	4	8	3	.....	5	3	.....	13
Candle.....	1	19	39	24	36	32	26	36	22	18	21	10	7	39	38	5	13	4	.....	63
Chinik.....	.....	3	8	7	4	11	1	9	.....	9	3	10	2	.....	.....	.....	9	.....	.....	11
Council.....	2	9	33	33	10	25	23	25	14	12	17	15	6	31	30	3	9	.....	.....	44
Deering.....	.....	1	14	3	11	6	5	10	3	.....	12	1	2	6	15	.....	.....	.....	.....	16
Haycock.....	1	44	18	23	39	28	40	32	19	20	6	11	9	50	6	1	49	6	.....	63
Kiana.....	.....	21	4	19	5	20	19	5	3	18	20	1	4	6	4	2	19	.....	.....	26
Kotzebue.....	1	6	4	2	8	4	3	7	3	2	7	2	.....	5	7	2	1	.....	.....	11
Nome No. 1.....	16	81	219	147	157	190	161	169	111	143	77	106	69	84	145	12	142	10	.....	326
Nome No. 2.....	1	4	6	2	9	3	8	8	5	4	2	3	1	4	6	1	3	.....	.....	12
Port Clarence.....	3	9	10	3	19	7	16	18	12	6	5	3	4	11	15	.....	7	.....	.....	22
St. Michael.....	1	37	16	4	37	23	21	41	26	6	8	6	13	30	31	6	12	.....	.....	54
Unalakleet.....	2	12	44	15	39	28	13	23	19	24	27	16	20	22	9	11	27	8	.....	59
Solomon.....	1	6	9	10	6	11	9	12	6	4	3	8	3	5	8	1	6	.....	.....	16
Taylor Creek.....	1	6	5	5	7	5	7	10	9	2	2	1	4	7	8	.....	4	.....	.....	13
Utica.....	1	2	12	6	8	7	3	9	3	10	10	3	1	1	14	.....	1	.....	.....	15
Wade Hampton No. 1 (Marshall).....	.....	21	12	5	24	16	17	26	18	6	9	6	.....	22	1	11	20	.....	1	33
Wade Hampton No. 2 (Willow Creek).....	2	13	17	8	17	16	11	23	10	10	12	5	1	15	8	7	16	1	.....	32
Total.....	34	303	503	332	458	455	396	484	292	312	259	223	152	354	359	72	347	33	1	860

THIRD DIVISION.

Precinct.	Delegate.			Legislature.										Road commissioner.				Scattering.	Total votes cast.		
				Senate.					House.												
				German, E. F.	Price, Thomas C.	Ward, James Wilbur.	Wilkinson, James A.	Green, J. Lindley.	Henry, W. J.	Murray, Joseph H.	Necklason, Necclaus H.	Noon, John.	Patterson, James A.							Ray, Elbert E.	Reed, Joseph H.
Aloagn k..... Anchorage No. 1..... Anchorage No. 2..... Bird Creek..... Bonanza (McCarthy District)..... Cache Creek..... Chickaloon..... Chignik..... Chisana..... Chitina..... Chogiung..... Copper Center..... Cordova..... Ellamar..... Esk Creek..... Eyak..... Fidalgo Bay..... Girdwood..... Granite..... Hope..... Illemna..... Jumbo..... Katalla..... Kennecott..... Kenai..... Knik.....	3	12	37	8	14	23	4	27	9	17	15	23	14	20	22	23	12	9	17	52	
	13	131	123	19	136	48	58	65	30	66	21	110	65	79	61	89	120	110	49	274	
	23	117	261	39	120	86	133	109	53	137	32	128	84	79	121	163	145	204	89	407	
	.....	3	12	5	7	3	4	2	5	3	1	7	3	5	4	3	11	12	4	21	
	2	13	5	2	12	5	1	4	6	5	2	8	8	10	6	6	11	2	6	20	
	1	23	2	2	11	.....	14	2	3	4	1	16	13	14	1	6	12	8	.....	18	
	2	24	14	2	12	4	19	7	2	21	2	17	15	6	12	6	19	30	7	9	
	.....	11	3	.....	11	3	.....	.....	3	3	.....	.....	11	11	3	3	11	.....	3	.....	
	.....	6	2	1	3	2	.....	.....	1	8	1	1	1	.....	.....	3	4	1	7	.....	
	.....	39	26	1	25	22	4	9	3	38	1	27	21	27	17	44	11	12	47	66	
	.....	16	7	2	13	5	.....	.....	8	6	6	1	13	11	11	7	5	5	5	.....	
	.....	10	.....	.....	6	1	189	48	117	19	161	16	96	78	182	113	329	67	74	264	
	.....	6	184	214	18	103	2	11	4	2	16	2	14	19	12	9	15	8	14	11	415
	.....	.....	14	23	2	12	9	11	8	2	16	9	31	10	13	8	9	12	16	11	38
	.....	2	27	16	9	15	6	11	8	10	16	9	38	26	67	15	76	20	15	52	47
	.....	2	59	38	7	39	37	11	24	8	38	5	38	7	6	3	5	4	5	3	104
	.....	1	8	5	3	8	2	.....	4	2	7	.....	6	7	6	3	5	4	5	3	15
	.....	2	20	18	6	16	6	11	8	4	9	3	24	14	15	8	7	20	17	5	42
	.....	3	8	4	3	8	3	5	1	4	8	.....	3	11	5	10	11	.....	4	4	15
	.....	.....	7	8	.....	7	6	1	4	.....	5	.....	8	4	8	6	5	4	5	4	15
.....	.....	14	.....	.....	14	.....	.....	.....	.....	.....	.....	14	13	9	.....	12	10	10	.....	14	
.....	2	12	9	1	10	9	2	4	5	12	4	12	7	6	5	12	7	6	6	24	
.....	2	30	11	4	15	14	4	11	3	13	2	18	12	15	8	26	16	10	14	43	
.....	.....	64	19	3	41	20	5	15	3	27	4	46	35	36	14	36	27	2	38	73	
.....	2	7	11	3	7	7	4	6	3	5	3	13	6	5	9	6	7	3	2	21	
.....	2	9	7	3	7	4	1	2	4	8	1	11	9	5	3	1	6	2	3	18	

Kodiak.....	1	33	14	1	30	9	4	9	.....	12	3	33	28	31	9	9	10	1	32	3	.....	3	.....	48
Kuskulana.....	.....	11	1	.....	3	6	.....	1	.....	5	.....	3	7	.....	2	.....	4	.....	7	.....	.....	.....	12	
Kuskulana No. 2.....	1	4	2	.....	1	1	5	2	.....	6	.....	5	2	.....	1	.....	.....	3	3	.....	.....	.....	7	
Latouche.....	14	63	29	15	50	15	20	16	19	40	11	49	49	35	23	.....	32	12	54	6	.....	.....	106	
McCarthy.....	4	33	72	3	19	46	33	25	5	85	5	51	37	29	24	.....	14	1	40	3	.....	.....	112	
McDougall.....	.....	4	2	.....	5	.....	1	1	.....	2	.....	3	4	4	2	.....	3	.....	4	.....	.....	.....	6	
Matanuska.....	1	31	16	5	19	10	9	9	.....	11	4	20	17	19	10	.....	10	.....	25	1	.....	1	49	
Moose Creek.....	.....	5	8	1	3	4	3	3	.....	4	1	2	1	.....	5	.....	3	.....	3	3	.....	.....	13	
Moose Pass.....	.....	3	1	1	3	.....	.....	4	.....	1	.....	4	1	.....	4	.....	1	.....	4	.....	.....	.....	4	
Maknek.....	.....	10	.....	.....	10	.....	.....	.....	.....	.....	.....	10	10	10	2	.....	10	.....	10	.....	.....	.....	110	
Ninilchik.....	.....	5	4	.....	6	2	1	4	.....	1	4	6	5	4	2	.....	2	.....	7	.....	.....	.....	10	
Nizina.....	.....	4	1	.....	5	.....	.....	.....	.....	3	.....	4	4	2	1	.....	1	.....	3	.....	.....	.....	5	
Ousinkie.....	1	8	11	1	9	7	2	8	.....	5	.....	8	3	11	12	.....	1	.....	11	1	.....	.....	20	
Palmer.....	2	6	4	2	2	4	4	1	4	3	2	5	5	1	3	.....	8	.....	4	3	.....	.....	13	
Roosevelt.....	1	6	6	3	6	4	.....	5	3	4	2	10	2	6	1	.....	7	.....	9	1	.....	.....	13	
Sanak.....	.....	3	6	.....	3	6	.....	6	.....	6	.....	3	3	3	6	.....	3	.....	3	.....	.....	6	9	
Seldovia.....	8	11	105	9	30	39	24	37	15	38	11	42	13	34	36	60	21	49	38	18	.....	.....	124	
Seward.....	3	114	85	5	98	40	22	113	11	43	5	162	62	76	51	67	63	24	127	7	.....	.....	205	
Sourdough.....	.....	.....	5	.....	7	2	1	4	1	6	.....	9	7	8	3	5	5	1	4	.....	.....	.....	13	
Strelina.....	.....	12	3	.....	5	6	2	3	1	6	.....	6	2	7	4	10	3	4	11	.....	.....	.....	16	
Susitna.....	.....	2	4	.....	3	2	.....	3	.....	4	.....	3	3	2	4	3	1	1	3	.....	.....	.....	6	
Talkeetna.....	2	22	22	5	17	20	3	17	3	13	5	17	8	15	14	23	13	25	17	1	.....	.....	47	
Unalaska.....	1	54	17	1	48	16	.....	19	1	17	1	50	50	49	17	16	51	.....	16	.....	.....	.....	72	
Unga.....	3	23	31	3	22	28	4	25	7	22	7	24	19	19	23	21	19	.....	20	.....	.....	.....	56	
Valdez Bay.....	1	24	11	1	21	9	3	4	2	12	1	21	20	23	12	13	13	6	16	2	.....	.....	36	
Valdez.....	8	180	66	12	145	33	42	24	17	71	10	149	178	123	110	77	95	33	151	9	.....	.....	261	
Wazilla.....	4	31	5	7	18	8	3	5	9	5	4	20	12	14	8	12	27	9	23	4	.....	.....	42	
Willow Creek.....	.....	3	3	.....	1	5	.....	1	1	2	.....	4	4	2	3	2	4	1	5	.....	.....	.....	6	
Total.....	123	1,575	1,409	219	1,256	831	537	798	221	1,054	207	1,415	1,077	1,176	860	1,364	1,008	864	1,323	305	8	.....	3,170	

1 Estimated from vote cast for Delegate.

Official returns of the election of Delegate from Alaska, members of the fourth territorial legislature, and road commissioner, held Nov. 5, 1918—Continued.

FOURTH DIVISION.

Precinct.	Delegate.			Senate.						House.								Road com- missioner.		Scattering.	Total votes cast.
	Connolly, Francis.	Sulzer, Chas. A.	Wickersham, James.	Hess, Luther C.	Pratt, L. K.	Callahan, Daniel.	Colbert, Louis Dale.	Collins, Earnest B.	Dunn, John W.	Good, Wm. F.	Hilliary, Robt. N.	Kilgore, A. M.	Laughlin, E. L.	Nordale, Antone J.	Pennington, Geo. W.	Ross, H. H.	Sheldon, Robert E.				
Aniak.....	19	1	13	16	4	18	1	2	11	5	2	14	8	11	4	16	20				
Battles.....	4	13	58	11	6	6	2	12	8	17	19	4	15	10	1	12	18				
Brooks.....	10	64	7	80	45	43	96	53	34	5	5	28	61	57	49	63	135				
Chicken.....	7	8	8	8	7	2	1	9	5	1	1	5	3	2	9	4	15				
Circle.....	14	2	2	13	3	2	2	3	12	1	1	10	2	13	12	4	17				
Coldfoot.....	7	5	7	11	2	9	4	4	8	1	1	7	1	5	9	4	13				
Deadwood.....	4	4	7	5	5	2	2	6	5	5	5	5	1	5	11	1	30				
Discovery.....	3	7	18	13	11	4	2	15	17	5	4	17	1	16	15	9	33				
Dome.....	19	10	10	12	16	10	11	16	8	2	2	10	5	19	17	11	29				
Eagle.....	5	17	12	20	9	9	4	10	17	5	9	51	11	13	17	14	34				
Ester.....	5	14	10	16	13	8	12	11	12	7	7	13	5	16	17	11	29				
Eureka.....	2	1	16	11	7	5	2	8	7	3	4	6	2	11	8	8	19				
Fairbanks.....	15	285	340	337	271	206	240	346	214	36	44	191	113	293	297	240	655				
Fairbanks Creek.....	8	15	15	15	7	9	12	13	11	1	17	6	2	5	16	5	23				
Flat.....	54	38	19	64	26	28	7	32	52	14	5	60	1	53	25	49	97				
Fort Gibbon.....	1	18	19	16	14	12	1	14	17	7	1	13	2	21	8	19	41				
Fort Yukon.....	13	5	5	8	8	2	1	5	11	1	1	11	2	13	4	12	18				
Franklin.....	6	3	3	7	2	2	1	8	7	1	1	8	3	8	7	1	9				
Georgetown.....	4	4	3	6	1	2	2	5	6	2	1	4	3	2	7	7	7				
Gilmore.....	19	4	4	19	5	8	4	6	10	6	5	12	1	9	7	18	25				
Goldstream.....	3	13	25	17	19	16	17	32	8	8	7	9	12	14	19	18	42				
Graehl.....	6	45	69	56	59	35	32	69	41	17	17	32	19	51	62	39	120				
Greenstone.....	3	3	9	4	8	4	1	5	11	1	2	4	1	2	7	4	12				
Hot Springs.....	3	13	12	13	12	8	1	11	9	6	5	10	3	17	11	11	29				
Iditarod.....	3	10	23	15	18	8	6	16	13	3	8	12	1	19	22	9	36				
Kantishna.....	4	4	1	4	1	1	5	7	5	1	1	4	2	5	1	4	6				
Little Eldorado.....	9	9	6	22	1	1	5	7	13	7	8	12	2	18	16	4	22				
Long.....	21	31	31	21	27	11	8	21	48	4	3	21	4	17	34	14	53				
Louden.....	9	9	9	6	3	1	4	4	9	3	5	5	5	3	5	4	9				

Lower Cleary.....	20	14	12	21	0	17	10	15	6	6	9	5	17	19	21	10	34
McGrath.....	10	16	13	13	7	5	9	13	1	13	13	4	17	15	12	13	29
Miller House.....	0	11	9	8	3	6	12	6	.....	.....	4	7	13	8	9	7	18
Moose Creek.....	10	2	8	2	.....	1	3	9	7	.....	8	.....	5	5	5	7	15
Nanana.....	164	209	169	183	134	84	135	150	40	37	124	200	173	236	105	226	399
Nulato.....	11	4	10	5	5	2	5	11	.....	.....	10	3	9	9	7	8	15
Ophir.....	29	19	33	10	15	9	23	41	4	10	34	8	21	14	18	24	51
Footman.....	5	9	22	6	4	4	2	27	7	11	22	2	20	17	8	18	34
Power plant.....	2	6	1	3	.....	1	.....	4	.....	.....	6	.....	.....	2	7	1	8
Rampart.....	27	13	22	17	7	3	16	32	1	4	25	3	32	19	5	34	42
Richardson.....	8	8	7	8	8	2	9	4	2	1	4	.....	6	7	3	12	16
Ruby.....	35	38	35	31	11	7	28	70	5	6	26	3	33	40	35	26	78
Salchaket.....	1	2	1	2	1	1	2	.....	.....	.....	2	1	1	2	.....	3	3
Spruce.....	2	6	2	7	4	1	7	8	2	2	4	1	4	5	8	1	10
Tacotna.....	20	4	18	4	.....	.....	6	19	0	4	19	1	21	15	7	13	26
Tanana.....	44	20	38	17	13	5	25	35	5	2	25	5	37	24	16	32	65
35 Mile.....	38	22	35	17	29	6	14	28	6	6	26	9	28	37	8	39	63
Tofty.....	7	18	12	9	8	3	15	9	1	1	12	2	13	17	10	9	27
Upper Cleary.....	8	4	4	10	8	8	6	6	3	3	6	3	7	4	5	6	14
Wiseman.....	33	15	31	12	17	1	32	23	10	9	25	6	22	20	22	21	49
Woodchopper (Circle district).....	4	4	12	3	7	6	3	12	4	4	9	1	9	8	7	8	18
Total.....	121	1,218	1,340	997	760	1,544	1,111	1,151	271	989	978	1,482	1,232	1,299	1,035	1,126	2,589

151279—20—23

	Sulzer.	Wicker-sham.	Connolly.
First division.....	1,391	1,326	51
Second division.....	303	503	34
Third division.....	1,575	1,409	123
Fourth division.....	1,218	1,216	121
Total.....	4,487	4,454	329

UNITED STATES OF AMERICA,  
Territory of Alaska, ss:

I, Charles E. Davidson, secretary of Alaska, do hereby certify that the above and within tabulation of votes is a true copy of the original tally sheets and has been compared with and corrected thereto; that said original tally sheets are on file in my office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the Territory this 16th day of May, A. D. 1919.

CHARLES E. DAVIDSON,  
Secretary of Alaska.



**EXHIBIT P.**

Contested-election case of James Wickersham v. Charles A. Sulzer. (Omitted in printing.)

**EXHIBIT R.**

[From the Valdez Miner, Saturday, May 17, 1919.]

**ATTEMPT TO FORCE SOLDIERS TO TESTIFY PROVES A FARCE—WICKERSHAM BLUFF FAILS TO WORK—NO PROOF GIVEN TO SHOW THAT WICKERSHAM HAD FILED CONTEST—SOLDIERS REFUSE TO ANSWER.**

The taking of testimony in the contest alleged to have been filed by James Wickersham for the seat in the House of Representatives in Washington as Delegate from Alaska before Isaac Hamburger, notary public, was held in the district court room Wednesday morning at 10 o'clock.

At the opening of the hearing Attorney J. L. Reed announced that he represented Mr. Wickersham, the contestant, and that he would excuse from the witnesses subpoenaed Capt. M. H. Faust and Q. M. Sergt. Charles Odle.

Attorney A. J. Dimond announced that he had been retained to represent the witnesses subpoenaed, and before proceeding further with the hearing he would ask the officer issuing the subpoenas on what authority the writs were issued. In reply to this question Mr. Hamburger stated that under the law governing contests a notary public has the authority to issue subpoenas upon the application of either party to a contest, that Mr. Wickersham had stated to him that he (Wickersham) had filed a contest with the Clerk of the House of Representatives and upon this statement the subpoenas had been issued.

Mr. Dimond then asked what further proof, if any, Mr. Hamburger had that the contest had been actually filed, to which Mr. Hamburger replied that he had none.

Mr. Dimond then requested that Mr. Reed, as the representative of Mr. Wickersham, produce proof that Mr. Wickersham had legally filed a contest with the Clerk of the House of Representatives as required by law. Mr. Reed stated that he would offer no proof.

Mr. Dimond then stated that he was confident that no contest had ever been filed by Mr. Wickersham and demanded to know when and upon whom the notice of contest required by law had been served and upon whom and when the notice of hearing as required by the statutes had been served. Mr. Hamburger stated that he did not know and Mr. Reed stated that he had no information to give out.

Mr. Reed requested that the record of the hearing show that he objected to Mr. Dimond's appearing at the hearing, declaring that the witnesses had no right to counsel.

Mr. Dimond then stated that in his opinion the provisions of the statute governing contests in the House of Representatives had not been complied with, and that the whole proceeding was null and void, and that he would advise those witnesses whom he represented to answer no questions. He stated that these witnesses were ready and willing to give their testimony in any proceeding legally had, but that the present hearing was a farce.

Mr. Reed announced that he was ready to proceed with the hearing and called Harry Shutts as the first witness. Mr. Shutts refused to answer to his name or to any further questions, and in like manner Emil Lains, A. A. Kott, Charles Agnetti, W. J. Cuthbert, D. H. Tyer, Thomas F. Griffith, Burr M. Snyder, H. G. Clifton, William R. Rogers, and H. Van Wyck were called and refused to answer.

Mr. Dimond then announced that in behalf of these witnesses he desired to enter a protest against the entire proceedings. He declared that the issuing of the summons was an abuse of judicial process, and that Mr. Wickersham was fully aware of the fact when he requested the issuing of the writs. To this statement Mr. Reed took an exception.

On or about May 9, 1919, Mr. Wickersham applied to Isaac Hamburger, who is a notary public, requesting him to issue subpoenas for a number of men in the Signal Corps of the United States Army at Valdez, Alaska, and some others. Mr. Wickersham assured Mr. Hamburger that a contest had been duly and regularly instituted and that all of the necessary preliminary steps had

been taken. Upon such assurance, and believing that the entire proceeding was legal and proper, Mr. Hamburger issued the subpoenas requiring the attendance of the witnesses named by Mr. Wickersham. These witnesses all appeared at the appointed time at 10 a. m. on May 14, 1919. The witnesses, however, upon advice that no contest was or could be really pending and that none of the steps required by statute had been complied with, refused to be sworn or to testify, and no proof was offered or attempted to be offered that the requisite steps for maintaining a contest had been taken as required by law.

There can be no question that there is no contest now pending for the office of Delegate from Alaska to the House of Representatives under the election held November 5, 1918. The contest proceeding is purely statutory. In the absence of the provisions of the statute above mentioned no contest whatever could be had, except under such rules and restrictions as Congress might specially provide. Each House of Congress by the Constitution is made the sole judge of the qualifications of its Members, and the House could seat one man and unseat another for any reason, or no reason, if it should see fit. But when it comes to the matter of issuing subpoenas to take depositions each and every one of the steps prescribed by law must have been substantially complied with before jurisdiction is acquired, or the witnesses are compelled to appear. In this case none of those steps have been taken. No notice of contest had been served upon Mr. Sulzer, and no notice was given of the time and place of taking the depositions, or names of the witnesses to be examined, nor could any such notice be given. It will probably be argued that since Mr. Sulzer was dead, and that it was therefore impossible to give notice, none was required; but such is not the case. Mr. Sulzer's death rendered it impossible for anyone to contest his seat until Congress should assemble and give permission therefor, and prescribe the procedure.

As soon as the subpoenas were issued to the Signal Corps men the Miner wired Juneau to find out if any contest had really been started. Mr. D. B. Chace, the secretary for Mr. George B. Grigsby, made a full investigation and found that no contest had been made or could be made under the circumstances. The attempt, therefore, to get depositions at Valdez was absolutely null and void, and the subpoenas issued were issued without right, and no one was under any obligation thereby to appear or testify.

The attempt of Mr. Wickersham to force the soldiers to appear before a judicial executive and tell how they voted, appears to have been a deliberate and conceived fraud, without legality, and shady in its methods in that Mr. Wickersham stated to the notary that he had already filed his contest, knowing as a lawyer that such contest could not be filed until a successor to Mr. Sulzer had been elected, and knowing also that such subpoenas were illegal until the proper steps had been taken toward filing the contest.

The soldiers and citizens of Valdez are naturally very indignant over the attempt to defraud them of their privileges as American citizens in keeping the ballot secret, and public condemnation of the methods employed to bring these men before a notary is universal.

#### THE WAY OUT.

Followers of Mr. Wickersham in this city as well as those politically opposed to him believe that he should abandon all idea of a contest for the delegateship and go before the people in the June 3 election. These men rightfully claim that if Mr. Wickersham is wanted by the people of Alaska he will be elected; if he is not wanted, it is better for the Territory that he be deprived of doing further damage to our interests by giving a majority against him that will everlastingly retire him from politics in Alaska.

From all parts of the Territory, from Democrats and Republicans alike, comes the demand that Mr. Wickersham decide the recent election by appearing again before the voters. That he fears to do this and prefers to go before men unacquainted with his proclivities for exaggeration is shown by a statement alleged to have been made in this city on his recent visit, when he said: "I do not want this office and would not make this contest, but so many persons have urged me to make the attempt that I will be forced to do so."

The recent illegal stunt pulled off in this city shows to what length the ex-Delegate will go to hang on to his salary as Delegate. It also shows that in ways that are devious and full of guile Mr. Wickersham is past master. If he has the indorsement of as many Alaskans as he claims, the election will be

a walk away for him. If he has not, the Territory will be purged of its greatest drawback for progression and advancement.

Will he allow the people to decide the question, instead of a biased and misinformed congressional committee, thousands of miles from the facts in the case?

We are convinced that he will not!

James Wickersham shook the dust of Valdez from his feet Sunday and left for Juneau, after a fruitless quest here for evidence in his coming contest.

Mr. James Wickersham in the last contest stated that the natives of Alaska were "not Indians but meek, gentle, inoffensive Russians." While in Ketchikan a week or so ago he prepared a list of the Indians who voted in the first division and will charge they voted illegally. The difference between a native in the first division and a native in the third division depends upon who they voted for.

#### EXHIBIT S.

[From The Daily Alaska Citizen, Saturday, May 17, 1919.]

#### WICK'S BLUFF TO SECURE MUCH TESTIMONY CALLED; PETITIONS FOR EX PARTE HEARING DENIED.

In the district court yesterday afternoon at 2 o'clock Judge Charles E. Bunnell handed down an opinion denying the petition of James Wickersham, through his attorney Morton E. Stevens, for the issuance of subpoenas for four members of the Signal Corps detachment at Fairbanks to appear and testify regarding their alleged voting in the general election last November. Those for whom subpoenas were requested are John E. Pegues, Durwood M. Hocker, Elmer D. Whittle, and Herman B. Stenbuck.

Local members of the legal fraternity are apparently puzzled over the filing of such a petition by Mr. Wickersham. It is not understood in what manner testimony such as was desired by the petitioner could have any bearing on a contest which might be filed before the House of Representatives, as ex parte proceedings have not been recognized by the House in contested-election cases.

In the opinion of local Democratic leaders, it is another case of bluff. They declare that he must have known that he was overstepping his rights when he attempted to force a hearing when it could not be shown that he has filed a contest, or that he intends to do so. Neither Attorney Stevens nor Mr. Wickersham's local representative, Henry T. Ray, could or did produce any official or unofficial notice that a contest had been filed.

That similar proceedings were instituted in other parts of the Territory by Wickersham is evident from a telegraphic dispatch received last night by the Citizen from the Miner of Valdez. This message follows, and in some respects is enlightening:

"In the taking of testimony relative to an alleged contest for the seat of the late Charles A. Sulzer, before I. Hamburger, a local notary public, J. L. Reed represented James Wickersham and A. J. Diamond appeared for the witnesses, soldiers stationed at Valdez and Fort Liscum. At the opening of the hearing Mr. Diamond requested the notary to show any authority he had for the proceedings. Notary Hamburger replied that he had been advised by Mr. Wickersham that the contest had been filed with the clerk of the House of Representatives at Washington. When asked by the attorney for further proof of such filing, the notary replied that he had none.

"Attorney Diamond then asked Mr. Wickersham's lawyer, Mr. Reed, to produce proof that his client had legally filed a contest before the House, as required by law. Mr. Reed replied that he could offer no proof. Mr. Reed also objected to Attorney Diamond's appearance at the hearing, declaring that the witnesses had no right to counsel.

"Mr. Diamond then stated that, under the provisions of the governing statute in such proceedings, he would advise the witnesses to answer no questions, stating, further, that all the witnesses were ready and willing to give testimony at any legal proceeding, but that the present hearing was but a farce.

"Capt. M. H. Faust and Sergt Odel were excused by the notary and Mr. Wickersham's attorney from appearing. It was known that Capt. Faust could prove himself a legal resident and a qualified voter in Alaska. Sergt. Odel was excused because he was a Republican. At the time Mr. Wickersham was in Valdez, shortly after the subpoenas for the hearing were issued, the sergeant met Wick on the street and informed him that he (Odel) is now and had always been a member of the Republican Party. Whereupon Wickersham told him to pay no attention to the summons.

"The remaining witnesses were called and refused to answer to their names or to reply to any further questioning. Attorney Diamond announced that he desired to enter a protest against the entire proceedings. He declared that the issuance of the subpoenas was an abuse of a judicial process and that Wickersham was fully aware of that fact when he requested the issuance of the writs.

"United States Marshal Brenneman was the only witness to testify. He was questioned regarding the vote of Deputy Mossman, of Anchorage, who was present and voted in Valdez at the last election."

Many people believe that the real reason was not to get evidence to use in any contest, but that Wickersham had some ulterior motive in view.

## EXHIBIT T.

UNITED STATES OF AMERICA,

*Territory of Alaska, Office of Secretary for the Territory:*

I, Charles E. Davidson, secretary of the Territory of Alaska and custodian of the great seal of said Territory, do hereby certify that the hereto attached is a full, true, and correct copy of House bill No. 54, entitled "An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives, and declaring an emergency," approved April 28, 1919, as the same is filed in my office.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the Territory of Alaska, at Juneau, the capital, this 16th day of May, A. D. 1919.

[SEAL.]

CHARLES E. DAVIDSON,  
*Secretary of Alaska.*

[In the House. By Mr. Casey.]

## HOUSE BILL NO. 54, TERRITORY OF ALASKA, FOURTH SESSION.

A BILL For an act entitled "An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives, and declaring an emergency."

*Be it enacted by the Legislature of the Territory of Alaska:*

SECTION 1. In case of a vacancy caused by death, resignation, incapacity, or from any other cause in the office of Delegate from Alaska in the House of Representatives, the governor of the Territory of Alaska shall cause a special election to be held to fill such vacancy and shall issue a writ ordering such special election to be held not less than 30 days from the date of the writ. The governor shall, immediately upon the issuance of the writ, notify the clerk of the United States district court of each division of the Territory of the issuance thereof, giving such notice by telegraph where necessary, and the clerk of the court of each division of the Territory shall immediately cause notice of such writ to be given to the city council of each incorporated town in his division and to each United States commissioner therein by the most rapid means of communication, telephone, telegraph, or otherwise.

Upon the receipt of such notice, it shall be the duty of the common council of each incorporated town to at once give notice of the election by posting a written or printed notice in three public places in each precinct in said town, specifying the time, place, and purpose of the election, and in case there are one or more newspapers of general circulation published in the town, then a copy of such notice shall be published at least once in one of such newspapers prior to the date of election.

The common council of each incorporated town shall also, at the time of providing for the giving of notice, appoint three judges of election and two clerks for each voting precinct, all of whom shall be qualified voters of the precinct; and no more than two judges and one clerk shall belong to the same political party; and shall immediately notify said judges and clerks of such appointment.

The United States commissioner in each recording district shall, upon receipt of said notice from the clerk of the court, at once proceed to give notice of the election by posting written or printed notices thereof specifying the time, place, and purpose of the election, which notices shall be posted as follows: One at the office of the commissioner in said recording district and one in each of three conspicuous public places in each of said voting precincts in said recording district, one of which shall be the polling place in the precinct.

The failure of any commissioner to post said notices, as herein provided, on account of notice not having been received by him from the clerk of the court in time, shall not invalidate the election held in any precinct if held at the time provided for in the writ issued by the governor of Alaska.

Each United States commissioner shall also select, notify, and appoint from the qualified electors in each voting precinct three judges of election for said precinct, not more than two of whom shall be of the same political party.

Upon the failure of any United States commissioner to appoint and notify judges of election as herein provided, the qualified voters present, at any election precinct on the day of election, may select judges by viva voce vote in the same manner as provided by law in case where judges of election fail to appear and qualify.

SEC. 2. The election precincts in and outside of incorporated towns shall be the same as those established for the last previous general election.

SEC. 3. The election, when held, shall be governed by the laws of Congress regulating general elections in the Territory of Alaska, except as otherwise provided by this act: *Provided*, That in the canvassing of the returns the canvassing board may, in their discretion, accept telegraphic returns from the clerk of the court of each division, and that a certificate of election may issue, prior to the receipt of the returns from all election precincts, when it is apparent that the vote cast at the missing precincts will not change the result.

SEC. 3½. That the qualifications of voters at said special election shall be the same as those prescribed by the laws of Congress and the Territory of Alaska covering general elections.

SEC. 4. The provisions of chapter 25 of the Session Laws of Alaska, 1915, entitled "An act to provide official ballots for elections in the Territory of Alaska," shall not apply to the special elections provided for in this act.

SEC. 5. It shall be the duty of the clerk of the court in each division to provide and furnish to each United States commissioner therein necessary election supplies, stationery, duplicate registers and tally sheets for use in the various precincts, and to forward the same to such commissioners as soon as possible after receipt by said clerk of the notice of the issuance of the writ of election, but in any precinct where such supplies fail to arrive the judges and clerks of election shall provide the necessary supplies, stationery, registers, and tally sheets.

SEC. 6. That an emergency is hereby declared to exist and this act shall take effect from and after its passage and approval.

Passed the house April 23, 1919.

E. J. WHITE,  
*Speaker of the House.*

Attest:

HARRY F. MORTON,  
*Chief Clerk of the House.*

Passed the senate April 25, 1919.

JAMES FRAWLEY,  
*President of the Senate.*

Attest:

T. M. REED,  
*Secretary of the Senate.*

Approved April 28, 1919.

THOMAS RIGGS, Jr.,  
*Governor.*



## EXHIBIT U.

JUNEAU, ALASKA, April 28, 1919.

I have to-day issued the following writ of election to fill vacancy in office of Delegate from Alaska:

*"To whom concerned:*

"Whereas a vacancy exists in the office of Delegate from Alaska in the House of Representatives of the United States, said vacancy having been caused by the death on the 15th of April, 1919, of the Hon. Charles Sulzer, Delegate from Alaska in the House of Representatives of the United States:

"Now, therefore, I, Thomas Riggs, jr., governor of the Territory of Alaska, under and by virtue of the authority conferred upon men by act of the Legislature of the Territory of Alaska entitled 'An act providing for a special election to fill a vacancy in the office of Delegate from Alaska in the House of Representatives, and declaring an emergency,' approved April 28, 1919, do hereby order that an election be held in the Territory of Alaska on Tuesday, the 3d day of June, 1919, for the purpose of electing a Delegate from Alaska in the House of Representatives of the United States to fill the vacancy caused as aforesaid. And the clerks of the United States district courts of the several judicial divisions of the Territory are hereby directed to forthwith cause notice of this writ to be given to the common council of each incorporated town in their respective divisions and to each United States commissioner therein by the most rapid means of communication—by telegraph, telephone, or otherwise. And the common council of each incorporated town in the Territory of Alaska is hereby directed to forthwith give notice of the election hereby called by posting written or printed notices thereof in three public places in each precinct in said town, specifying the time, place, and purpose of such election, and in towns where there is a newspaper of general circulation published, to cause a copy of such notice of election to be published at least once in such newspaper prior to the date of election. And the common council of each incorporated town is further directed to forthwith appoint three judges of election and two clerks, and to notify said judges and clerks of their appointment. Not more than two judges and one clerk shall belong to the same political party.

"And the United States commissioner in each recording district is hereby directed to forthwith give notice of the election hereby called by posting written or printed notices thereof, specifying the time, place, and purpose of the election, and such notices shall be posted as follows: One at the office of the commissioner of said recording district and one in each of three conspicuous places in each of the voting precincts in said recording district, one of which shall be the polling place in the precinct. And the United States commissioner in each recording district is further directed to forthwith appoint three judges of election for each voting precinct in said recording district, not more than two of whom shall be of the same political party. The election precincts in and outside of incorporated towns shall be the same as those established for the last previous general election. The election, when held, shall be governed by the laws of Congress regulating general elections in the Territory of Alaska as set forth in chapter 2, title 11, of the Compiled Laws of Alaska. The qualification of voters at the special election shall be the same as those prescribed by section 394, chapter 2, title 11, of the Compiled Laws of Alaska, as modified by chapter 1 of the Session Laws of Alaska for 1913, entitled 'An act to extend the elective franchise to women of the Territory of Alaska,' approved March 21, 1913. The form of ballot shall be the same as that prescribed by section 400, chapter 2, title 11, of the Compiled Laws of Alaska, and the provisions of chapter 25, Session Laws of Alaska, 1915, entitled 'An act to provide official ballots for elections in the Territory of Alaska,' shall not apply to the election hereby called.

"Given under my hand and the seal of the Territory, at Juneau, the capital, this 28th day of April, in the year of our Lord one thousand nine hundred and nineteen and of the Independence of the United States the one hundred and forty-third.

"THOMAS RIGGS, Jr., Governor."

**TESTIMONY FOR CONTESTEE.****NOTICE OF TAKING DEPOSITIONS.**

*To the Hon. James Wickersham, contestant, and J. L. Reed, his duly authorized agent:*

You and each of you will please take notice that the testimony by depositions, of the hereinafter-named witnesses, on behalf of the above-named contestee, will be taken before Frank H. Foster, a notary public for the Territory of Alaska, commencing at 2 o'clock in the afternoon of the 19th day of September, 1919, and continuing from day to day until all of said depositions are taken, at the law office of Frank H. Foster, in the town of Cordova, Territory of Alaska.

The names of the witnesses whose testimony is to be thus taken are as follows: J. A. Cohn, Sarah Cohn, Anna Bartell, Frank Stump, Mrs. Frank Stump, Arthur Pinkus, Gus Cozakas, William Currie, Barbara Keating, Mrs. W. H. Greaves, Nellie Crawford, L. M. Saby, Frank Miller, Roy Walker, Fred Schramm, J. H. Ross, Mrs. A. L. Spencer, Theodore Stansland, Fred Van Camp, Edward F. Medley, R. H. L. Noaks, T. J. Donohoe, Charles Derry, K. G. Robinson, and others whose names to the contestee are unknown.

Whereof you will take due notice.

GEORGE B. GRIGSBY,

*Contestee,*

By T. J. DONOHUE,

*Agent and Attorney for Contestee.*

Service of the above-named and foregoing notice is hereby accepted at Valdez, Alaska, this 12th day of September, 1919.

JAMES WICKERSHAM,

*Contestant,*

By J. L. REED,

*Authorized Agent for Contestant.*

CORDOVA, ALASKA,

*September 19, 1919.*

Be it remembered, that pursuant to the statutes of the United States, relative to the contest in the election case and proceedings in the case of James Wickersham v. Charles A. Sulzer, and James Wickersham v. George B. Grigsby, contesting the election case in the House of Representatives for the right to a seat as delegate from the Territory of Alaska, and pursuant to the hereto attached notice of taking depositions on behalf of contestee, George B. Grigsby, said parties appeared before the Hon. Frank H. Foster, notary public for Alaska, at his office in the town of Cordova, Alaska, on the 19th day of September, 1919, there being present: The Hon. Frank H. Foster, notary public; Frank Burns, stenographer; George Dooley, appearing as attorney for James Wickersham, contestant; and T. J. Donohoe, appearing as attorney for George B. Grigsby, contestee, the following proceedings were had:

**DEPOSITION OF MRS. HANS HANSON.**

Mrs. HANS HANSON, a witness on behalf of George B. Grigsby, was first duly sworn by the notary public, Hon. Frank H. Foster, to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

Direct examination by T. J. DONOHUE, attorney for contestee:

Q. Please state your name.—A. Mrs. Hans Hanson.

Q. When were you and Mr. Hanson married, about when?—A. The 26th of July, 1919.

Q. What was your name before being married?—A. Nellie Crawford.

Q. When did you first come to Alaska?—A. The 1st of May, 1918.

Q. 1918?—A. Yes; 1918.

Q. How long did you reside in Alaska before the 5th day of November, 1918?—A. Six months.

Q. Were you present in the town of Cordova, Alaska, on the 5th day of November, 1918, at the time of a general election, the election throughout the Territory of Alaska for the purpose of electing a Delegate from Alaska to the Congress of the United States?—A. Yes.

Q. Did you on that day vote at the general election held in the town of Cordova voting precinct for the Territory of Alaska?—A. Yes.

Q. For whom did you vote for Delegate to Congress from Alaska at the election?

Mr. DOOLEY. I object to the question, on the grounds that the witness voted in compliance with the laws and rules of Alaska, of the town of Cordova, under ordinance 35, section 30, making it a misdemeanor to divulge the nature of one's vote. I refer particularly to section 34, ordinance 35.

Mr. DONOHUE. Attorney for contestee states that the ordinance cited by counsel for James Wickersham is a municipal ordinance governing the municipal election in the town of Cordova, Alaska, and has no application whatever to the general election throughout the Territory of Alaska on the 5th day of November, 1918, and the witness is requested to answer the question, for the reason that her testimony shows that she was not a legal voter at the said election, owing to the fact that she had resided in Alaska but six months previous to the holding of said election.

Mr. DOOLEY. I object to the question further that Americans have the right to vote and according to law can not be compelled to answer for whom she voted.

Mr. DONOHUE. Counsel for contestee agrees that a legal voter can not be compelled to answer for whom she voted, but as the witness's testimony discloses that of not being a resident in the Territory one year previous to the election, that she was an illegal voter at said election. Will the question please be re-read that she may answer that question?

(Question read.)

A. Wickersham.

Q. Mrs. Hanson, did any party in the town of Cordova, on said election day, come to you and urge you to go and vote?—A. Yes.

Q. State who those particular persons were, please?—A. Mr. Gottschalk and Pete Lorentsen of the Alaskan Hotel.

Q. Did they request at that time that you vote for any particular person as Delegate to Congress?—A. They asked if I would vote for Wickersham.

Q. Did you disclose, at that time, the length of time you had been in Alaska?—A. Yes; I told Mr. Gottschalk.

Q. What did he tell you?—A. It did not make any difference here.

Q. Mrs. Hanson, they asked you, did they not, to vote for Mr. Wickersham?—A. Yes; gave me the day off to go and vote.

Q. Was this if you go and vote for Wickersham?—A. Mr. Wickersham stayed at the hotel and seemed all right and asked if I vote for him.

Mr. DOOLEY. To use your own judgment.

Q. Mr. Gottschalk told you that if you would vote for Wickersham he would give you the day off?—A. Yes, sir.

Q. That is all. At that time you were in the employ of Mr. Gottschalk?—A. Yes, sir.

MRS. HANS HANSON.

#### DEPOSITION OF GUST COZAKAS.

GUST COZAKAS, witness on behalf of George B. Grigsby, was sworn to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

Direct examination by T. J. DONOHUE, attorney for contestee:

Q. State your name, please.—A. Gust Cozakas.

Q. Where do you reside?—A. My reside?

Q. Yes; where do you live?—A. I reside in Cordova.

Q. Cordova, Alaska?—A. Yes.

Q. Were you in Cordova, Alaska, on the 5th day of November, 1918, at the time of the general election, which was held throughout the Territory of Alaska for the purpose of electing a Delegate to Congress from Alaska?—A. Yes, sir.

Q. Did you vote on that day, the 5th day of November, 1918, at the Cordova voting precinct, at which said election was being held to elect a Delegate to Congress?—A. Yes, sir.

Q. What country are you a native of?—A. Creton Island.

Q. Is that under the dominion of the King of Greece?—A. Yes.

Q. How long have you resided in the United States?—A. Since 1908.

Q. Have you ever taken out your final citizen's papers?—A. The first papers.

Q. You have not your final papers?—A. 1914.

Q. In 1914 you took out your first papers?—A. Yes.

Q. And you have never taken out your final papers?—A. No.

Q. Then, on the 5th day of November, 1918, at the time you voted at said election, you were not a full citizen of the United States, were you?—A. No.

Q. For whom did you vote for Delegate to Congress from Alaska, at said election?

Mr. DOOLEY. I object to the question on the same grounds that an American citizen has a right to vote for whom he pleases, and can not be compelled to state for whom he voted; this to advise the witness that he has a right to vote for whom he pleases and retain that knowledge unto himself. If he wishes to answer this question willingly I will not resist; he does not have to.

Mr. DONOHUE. The attorney for the contestee states that the witness's own testimony shows that he was an illegal voter on the 5th day of November, 1918, when said election was held, and he was not then a citizen of the United States. Counsel agrees with attorney for contestant that a citizen of the United States legally qualified to vote, who did vote, need not disclose for whom he voted, but that an illegal voter is compelled under the law to testify for whom he voted at the election and it is insisted that the witness answer the question for whom he voted.

Mr. DOOLEY. I further advise the witness that the law does not compel him to incriminate himself, and he can stand on his own right, if he wishes so to do.

Mr. DONOHUE. Counsel for contestee states that there is no question of criminality involved in this case; it is an effort to find out if you were a legal voter or if you were an illegal voter. Read the question.

(Question read.)

A. Well, I don't tell who I vote for.

Q. You don't tell who you vote for, is that it?—A. Yes, sir.

Q. Counsel for contestee presents to the witness the paper marked "Contestee's Exhibit A," for identification, and asks the witness if that is his signature set to that paper. Did you sign that paper?—A. I think that is my signature.

Counsel for contestee desires to read into the record of contestee's Exhibit A, for identification, as follows:

"United States of America, Territory of Alaska. I, Gust Cozakas, being first duly sworn, depose and say: That I was personally present in the Cordova voting precinct, Territory of Alaska, on the 5th day of November, 1918, at which time there was being held an election in the said Cordova precinct, being a general election throughout the Territory of Alaska, for the purpose of electing a delegate from Alaska to the United States Congress, and to elect numerous Territorial officers; that I voted at said election for Delegate to Congress from Alaska and voted for James Wickersham for that office; that I am not a citizen of the United States, but am a subject of Greece; that I took out what is known as my first papers in an application for citizenship, but never took out my final papers; that at the time I voted for Delegate to Congress on the 5th day of November, 1918, at the said Cordova voting precinct, I believed that I was entitled to vote, but have since learned that I was mistaken and that my vote was illegal; I therefore voluntarily make this affidavit for the purpose of correcting the wrong I did by so voting.

"(Signed) GUST COZAKAS.

"Subscribed and sworn to before me this 15th day of September, 1919.

"(Signed) R. H. L. NOAKS,

"Notary Public for Alaska."

[OFFICIAL NOTARY SEAL.]

"My commission expires April 29, 1923."

And I now offer this original affidavit and ask that it be marked "Contestee's Exhibit A" at the deposition of Gust Cozacos, and be attached to his deposition.

Mr. FOSTER. If there are no objections it will be admitted.

Cross-examination by George DOOLEY, attorney for contestant:

Q. Mr. Cozakas, in the latter part of that affidavit you state you voluntarily made this affidavit. Who presented that affidavit to you?—A. Mr. Noaks.

Q. Then, you did not voluntarily go to the commissioner and make that affidavit.—A. He came after me.

Q. He came after you?—A. Yes.

Q. That is all.

Mr. DOOLEY. I object to that part of the affidavit that reads: "I therefore voluntarily make this affidavit for the purpose of correcting the wrong I did by so voting."

Redirect examination:

Q. Now, Mr. Cozakas, in this affidavit you state that at said election you did vote for James Wickersham as Delegate to Congress from Alaska. That part of it is true, is it not?—A. I don't get you.

Mr. DONOHUE. Read the question again.

(Question read.)

A. I vote for James Wickersham and affidavit got my sign and must be true.

Q. That is all.

Mr. DOOLEY. That is all.

GUST COZAKAS.

CONTESTEE'S EXHIBIT A.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

I, Gust Cozakas, being first duly sworn, depose and say: That I was personally present in the Cordova voting precinct, Territory of Alaska, on the 5th day of November, 1918, at which time there was being held an election in the said Cordova precinct, being a general election throughout the Territory of Alaska for the purpose of electing a Delegate from Alaska to the United States Congress, and to elect numerous Territorial officers; that I voted at said election for Delegate to Congress from Alaska and voted for James Wickersham for that office; that I am not a citizen of the United States, but am a subject of Greece; that I took out what is known as my first papers in an application for citizenship, but never took out my final papers; that at the time I voted for Delegate to Congress on the 5th day of November, 1918, at the said Cordova voting precinct, I believed that I was entitled to vote, but have since learned that I was mistaken and that my vote was illegal; I therefore voluntarily make this affidavit for the purpose of correcting the wrong I did by so voting.

GUST COZAKAS.

Subscribed and sworn to before me this 15th day of September, 1919.

[SEAL.]

R. H. L. NOAKS,  
*Notary Public for Alaska.*

My commission expires April 29, 1923.

DEPOSITION OF GEORGE E. WALKER.

GEORGE E. WALKER, a witness on behalf of George B. Grigsby, was duly sworn to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

Direct examination by Mr. DONOHUE, attorney for contestee:

Q. State your name.—A. George E. Walker.

Q. Where do you reside?—A. In Cordova.

Q. How long have you resided in Cordova?—A. I arrived here last year, the 14th of April.

Q. Where did you reside previous to coming to Cordova?—A. Fairbanks.

Q. How long did you reside in and about Fairbanks?—A. Ten years.

Q. Fairbanks is in the fourth judicial division?—A. Yes, sir.

Q. And Cordova, Alaska, is in the third judicial division?—A. As I understand it.

Q. Were you in Cordova, Alaska, on the 5th day of November, 1918, at the time when there was a general election held throughout the Territory of Alaska and in the Cordova voting precinct at Cordova for the purpose of electing a Delegate to Congress from Alaska?—A. Yes, sir.

Q. Are you acquainted with Mr. William Zacharias?—A. Yes, sir.

Q. And are you also acquainted with Mrs. William Zacharias?—A. Yes, sir.

Q. Are you acquainted with J. C. Lemoin?—A. Yes, sir.

Q. Are you acquainted with J. B. Hudson?—A. Yes, sir.

Q. How long have you known these parties?—A. I have known them practically all the time I was in the interior.

Q. For 10 years or more in the interior?—A. Yes, sir.

Q. Where did Mr. and Mrs. Zacharias reside, or where was their home on the 5th day of November, 1918, that you know?—A. Well, to answer that—they were at the election.

Q. Yes; but where was their home?—A. Brooks.

Q. Brooks is in the fourth judicial district, is it not?—A. Yes, sir.



Q. How far from Fairbanks?—A. Over at least 80 miles.

Q. In which direction?—A. I could not tell you the direction.

Q. What river?—A. It is possibly on the Tolovana River, but is in the Tolovana mining district; but the direction I do not know.

Q. Where did Lemoin live?—A. He lived in Fairbanks.

Q. Where did Mr. Hudson live?—A. He lived in Brooks and was mining in the Tanana district.

Q. How long had these people been living in the fourth judicial district previous to the 5th day of November, 1918?

Mr. DOOLEY. The witness can not answer that question. This witness testifies that he was, on the 5th day of November, 1918, in Cordova, Alaska.

Q. Did you see any of those parties just named in Cordova on the 5th day of November, 1918; were they here?—A. Yes, sir.

Q. How long previous to the 5th day of November, 1918, was it when they arrived in Cordova?—A. It had only been a day or two.

Q. What were they doing in Cordova?—A. They came from the interior on their way outside.

Q. By saying "on their way outside" you mean the United States—A. Certainly.

Q. Did any of these parties tell you on election day that they had voted?—A. Several of them did. Mr. and Mrs. Zacharias.

Q. Did Hudson and Lemoin?—A. Hudson and Lemoin both stated.

Q. Did they state to you for whom they voted?—A. No, I never heard any conversation in that respect.

Q. Are you acquainted with Al Raynor?—A. Yes, sir.

Q. Where was his home or residence on the 5th day of November, 1918?—A. Well, he was a captain in the interior on one of the steamboats on the Tanana River.

Q. What was his business, or what brought him to Cordova on the 5th day of November, 1918?—A. He was going through, out to the United States.

Q. How long had he been in Cordova previous to the 5th day of November, 1918?—A. Three or four days.

Q. Do you know a man by the name of Stokes?—A. Yes, sir.

Q. Where did he reside on the 5th day of November, 1918?—A. He was on his way outside.

Q. What is his business?—A. He was an engineer of the steamboat *Tanana*.

Q. This steamboat makes its headquarters at Fairbanks, does it?—A. Sometimes at Fairbanks and sometimes at White Horse.

Q. They were employed on the steamboat running from White Horse down the Yukon and up the Tanana to Fairbanks?—A. From Fairbanks to Tanana and to Fort Gibbon; they have been and can go up and down the river both ways.

Q. How long had Mr. Stokes been in Cordova previous to the election on the 5th day of November, 1918?—A. Three or four days.

Q. He was en route from the fourth division, outside?—Yes, sir.

Q. Did you know a man by the name of Hyde?—A. I did.

Q. At the time there was an election at Cordova on the 5th day of November, 1918, for the purpose of electing a Delegate to Congress from Alaska, where was his home or place of residence?—A. He was an engineer working for a steamboat company up in Fairbanks.

Q. How long had he been in Cordova previous to the 5th day of November, 1918?—A. Three or four days.

Q. Was he en route from the fourth division to the United States?—A. Yes, sir.

Q. Did either of these three gentlemen tell you that they had voted at the election on the 5th day of November, 1918?—A. They were talking about it and one of them said they were up to vote; if they did so, I do not know.

Mr. DOOLEY. I object to the question as hearsay. I object to hearsay testimony. If he saw them vote, he may admit it.

Q. Did I understand you to say that Al Raynor told you that he had gone up and voted, did he not?—A. Yes, sir.

Mr. DOOLEY. I still object to hearsay testimony.

Q. Did not Mr. Stokes and Mr. Hyde and Mr. Lemoin state that they voted?—A. They stated that they had voted.

Q. Did either of them state for whom they voted?—A. No, sir.

Q. How long have you known these men?—A. Seven or eight years.

Q. During all that time while you were in the interior they were engaged on steamboats on the Tanana and Yukon Rivers?—A. Yes, sir.

Q. That is all.

Cross-examination by Mr. DOOLEY, attorney for contestant:

Q. You claim you came to Cordova in April, 1919?—A. No; 1918.

Q. I presume you voted at the last election, Mr. Walker?—A. I did.

Q. Now, Mr. Walker, the last time you saw Mr. Zacharias, was when?—A. I saw him when they left for Brooks.

Q. About what time was that?—A. Sometime in the spring of 1917.

Q. That was practically a year, and they might have resided in the third division.—A. Only they stated that they came from the interior.

Q. It is a fact that Mr. and Mrs. Zacharias might have resided within the third division without your knowledge?—A. Only from what Zacharias told me that he had come from Brooks.

Q. It is a fact that they might have resided in the third division without your seeing them?—A. Yes, sir.

Q. The same with Lemoin?—A. Well, he could have done that, but if a man tells you that he just left Fairbanks, naturally means that he did.

Q. The same fact is true of Mr. Hudson; he may have worked in the third division?—A. Yes, sir.

Redirect examination by T. J. DONOHUE:

Q. Do you know where these people who you have testified regarding, in what hotel they stayed while in Cordova on the 5th day of November, 1918?—A. I believe that Hudson, Stokes, and Lemoin stopped at the Alaskan Hotel.

Q. Do you know who was running the Alaskan Hotel at that time?—A. Gottschalk and Terrel.

Q. Do you know whether Gottschalk was an active supporter of Mr. Wickersham in the election?—A. Yes; from his conversation.

Q. Did he state to you as to whether he was out for Wickersham or not?—A. He said he was a Wickersham man.

Q. Mr. Terrel's interests were represented by Pete Lorentsen, and he was in the Alaskan Hotel at that time, was he not?—A. He was.

Q. Did you say that Pete Lorentsen was an active supporter of Mr. Wickersham in that election?—A. He always claimed to be a Wickersham man.

Q. Mr. Lorentsen was well and perfectly acquainted with the men regarding whom you have testified, was he not?—A. He was; with all of them.

Q. Did you ever hear Mr. Lorentsen or Mr. Gottschalk discussing Mr. Wickersham's merits as a Delegate from Alaska to Congress in the presence of these men from Fairbanks?—A. No.

Cross-examination by Mr. DOOLEY:

Q. You do not know that Mr. Lorentsen or Mr. Gottschalk were Wickersham men, only from their conversation?—A. No; just from what they said.

Redirect examination by Mr. DONOHUE:

Q. But you heard them state that they were Wickersham men?—A. Yes.

GEO. E. WALKER.

In connection with the testimony of witness, George E. Walker, the counsel for contestee desires to introduce as evidence the following affidavit:

#### CONTESTEE'S EXHIBIT B.

#### AFFIDAVIT.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

Frank H. Foster, being first duly sworn, deposes and says: That I am an attorney at law residing at and practicing my profession at Cordova, Alaska; that I was in the town of Cordova, Alaska, on the 4th and 5th days of November, 1918; that I was taking quite an active part in the election that took place on the 5th day of November, 1918, at which said election a Delegate from Alaska to Congress was elected; that my activity was exerted on behalf of the Republican Party; that I know James Wickersham, who was a candidate at said election for Delegate to Congress; that I was also acquainted during his lifetime of Charles A. Sulzer, who was also a candidate at said election for Delegate to Congress.

That on the evening of the 4th day of November, 1918, I had a conversation with J. B. Hudson, in the Alaskan Hotel, town of Cordova, at which conversation Robert Gottschalk was also present; that Robert Gottschalk was at said time a strong supporter of James Wickersham; that in this conversation the said J. B. Hudson stated to me in the presence of Gottschalk that he, Hudson, intended to vote for James Wickersham for Delegate to Congress at the election to be held in Cordova the following day.

That I am acquainted with Mr. William Zacharias and with Mr. William Zacharias, who voted at the election held in Cordova on the 5th day of November, 1918, for the purpose of electing a Delegate from Alaska to Congress; that I was present at the voting place where said election was held in the town of Cordova, at the time William Zacharias, Mrs. William Zacharias, and Mrs. A. L. Spencer appeared at said voting place, and saw them and each of them cast their ballot at said election; that shortly thereafter, within 5 or 10 minutes after said parties had voted, Mrs. William Zacharias stated to me that herself, her husband, William Zacharias, and Mrs. A. L. Spencer voted for James Wickersham for Delegate from Alaska to Congress, among other things in said conversation she used the following language: "Well, there are three good Wickersham votes."

FRANK H. FOSTER.

Subscribed and sworn to before me this 18th day of September, 1919.

[SEAL.]

R. H. L. NOAKS,  
*Notary Public for Alaska.*

My commission expires April 29, 1923.

#### DEPOSITION OF ARTHUR PINKUS.

ARTHUR PINKUS, a witness in behalf of contestee, George B. Grigsby, was duly sworn by notary public, Hon. Frank H. Foster, to tell the truth, the whole truth, and nothing but the truth, and directly examined by T. J. Donohoe, testified as follows:

Q. State your name.—A. Arthur H. Pinkus.

Q. Where do you reside, Mr. Pinkus?—A. Cordova.

Q. Did you reside in the town of Cordova at the time of the election on the 5th day of November, 1918, at the time there was a general election held for the purpose of electing a Delegate to Congress from Alaska?—A. Yes, sir.

Q. Where were you born, Mr. Pinkus?—A. Bendigo Coal Fields of Australia.

Q. When did you first come to the United States from Australia?—A. In the fall of 1897.

Q. In the fall of 1897. When did you arrive in Alaska?—A. I first landed in the Yukon Territory.

Q. In 1897 you came to the Yukon Territory?—A. No; in 1898.

Q. And then you went down the river to Fairbanks?—A. I then went to Fairbanks, from Fairbanks to Cordova, Cordova to Valdez, and then back here.

Q. Have you ever taken out full citizen's papers?—A. I presume so, I was told that I had, and when Mr. Miller was over here I went and saw him, and he took my signature and gave me the understanding that he would send them to me the first of the following month.

Q. You never appeared before the court and received your final papers?—A. No, sir.

Q. On the 5th day of November, 1918, you had not your final citizens papers?—A. No; not from the court.

Q. Did you vote at the election held in Cordova on the 5th day of November, 1918, at which election a Delegate was elected from Alaska to Congress?—A. Yes, sir.

Q. For whom did you vote?

Mr. DOOLEY. I object to the question; that the witness performed the duties of an American citizen and believe that he has a sacred right to not tell anyone for whom he voted.

Q. Then, do I understand that you refuse to state?—A. I do.

Q. That is all.

Cross-examination by Mr. DOOLEY:

Q. Mr. Pinkus, you called on me some time back, and I read an affidavit to you, that you signed. Is that your signature?—A. Yes, sir.

Q. I would like to offer that as contestant's Exhibit A.  
Mr. DONOHUE. Let me see it.

Redirect examination by Mr. DONOHUE:

Q. Mr. Pinkus, who presented to you this affidavit, marked "Contestant's Exhibit A"?—A. Mr. George Dooley.

Q. This was sworn on the 21st day of August, 1919, and I understand that at that time you were under the impression that you had your final citizen's papers.—A. I can not believe that I have not them. I understood that when I handed my name in that was all that was necessary and would be a citizen in a month or six weeks.

Q. Mr. Miller is deputy clerk of the district court, is he not?—A. Yes, sir.

Q. But you never at any time appeared in open court or before the district judge and was admitted to citizenship?—A. No; I have been in Cordova ever since that time.

Q. You never took the final oath of allegiance to the United States?—A. No more than I did when Mr. Miller was here.

Q. You have never had any examination as to your qualification for citizenship before the open court?—A. No.

Q. You have never had any witnesses appear and testify, stating that they knew you and that in their opinion you would make a good citizen of the United States?—A. Not in open court.

Q. You have never foresworn your allegiance to the King of England—never took an oath that you would support the Constitution of the United States against the King of England?—A. No more than when I took out my first papers, when I had to swear to something like that.

Q. What was the time elapsed between the time you took out your first papers and the time when you signed these papers with Mr. Miller?—A. About two years.

Q. Where did you take out your first papers?—A. Valdez.

Q. I think that is all.

Cross-examination by Mr. DOOLEY:

Q. In other words, you feel that you fulfilled the rights of citizenship had you appeared in open court?—A. Yes, sir.

Redirect examination by Mr. DONOHUE:

Q. When did this transaction take place between you and Mr. Miller, deputy clerk of the district court, how long ago?—A. I can not remember; about eight months; I think it was last summer some time, when he was over.

ARTHUR H. PINKUS.

#### CONTESTANT'S EXHIBIT 1.

TERRITORY OF ALASKA,

*Town of Cordova, ss:*

I, A. H. Pinkus, being first duly sworn, depose and say, that on November 5, 1918, I was over the age of 21 years, and had been a resident of the Territory of Alaska for more than one year last past, and a resident of the Cordova precinct for more than 30 days last past, and was then a citizen of the United States.

A. H. PINKUS.

Subscribed and sworn to this 21st of August, 1919.

GEORGE DOOLEY,

*Notary Public in and for the Territory of Alaska,*

*Residing at Cordova, Alaska.*

My commission expires August 12, 1922.

#### DEPOSITION OF K. G. ROBINSON.

K. G. ROBINSON, a witness on behalf of contestee, George B. Grigsby, was duly sworn by the notary public, Hon. Frank H. Foster, to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

Direct examination by T. J. DONOHUE, attorney for contestee:

Q. State your name.—A. K. G. Robinson.

Q. Where do you reside?—A. Cordova.

Q. How long have you resided in Cordova?—A. Since 1911.

Q. What is your business or occupation?—A. Manager of the Cordova Adjustment Co.

Q. Have you recently, at my request, examined the hotel registers in the town of Cordova with the view of ascertaining when Mr. and Mrs. Wm. Zacharias, Mrs. A. L. Spencer, Mr. J. C. Lemoin, Mr. J. B. Hudson, Al Raynor, Mr. Stokes, and Mr. Tom B. Hyde registered last fall at the hotels of Cordova?—A. I did.

Q. Where did Mr. and Mrs. Zacharias and Mrs. A. L. Spencer register in the town of Cordova?—A. Windsor Hotel, November 3, 1918.

Q. Where did J. C. Lemoin register and when?—A. At the Alaskan, November 3, 1918.

Q. When and where did Mr. J. B. Hudson register?—A. Alaskan Hotel, October 29, 1918.

Q. Where did Robbins register?—A. Alaskan Hotel, October 29, 1918.

Q. Do you know when and where did Al Raynor register previous to November 5, 1918?—A. I did not look.

Q. Nor Mr. Hyde?—A. Nor Mr. Hyde.

Q. Do you know of any of these parties having voted at the election on November 5, 1918?—A. I do not, I was not in Cordova at that time.

Q. Was not in Cordova?—A. No, sir.

Q. That is all.

Cross examination by Mr. DOOLEY, attorney for contestant:

Q. All your testimony, Mr. Robinson, is what you found on the registers of the Alaskan and Windsor Hotels, is it not?—A. Yes, sir.

Q. That is all.

Mr. DONOHUE. At this time the attorney for contestee, George B. Grigsby, desires to continue the examination of this witness whenever he has had an opportunity to examine the hotel registers and see if he can ascertain when Raynor, Stokes, and Hyde registered.

Redirect examination after above statement was complied with.

Q. Mr. Robinson, have you examined the hotel registers to see when and where Al Raynor, Lewis B. Hyde and Stokes registered just previous to the election held November 5, 1918?—A. Yes, sir.

Q. When and where did Mr. Al Raynor register?—A. Alaskan, October 29, 1918.

Q. Where and when did Mr. Tom B. Hyde?—A. Alaskan Hotel, on October 29, 1918.

Q. And when and where did Mr. E. E. Stokes register?—A. Alaskan Hotel, October 29, 1918.

K. G. ROBINSON.

#### DEPOSITION OF R. H. L. NOAKS.

R. H. L. NOAKS, witness in behalf of contestee, George B. Grigsby, being first duly sworn by Notary Public Hon. Frank H. Foster to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by T. J. DONOHUE, attorney for contestee.

Q. State your name?—A. R. H. L. Noaks.

Q. Where do you reside?—A. Cordova, Alaska.

Q. What official position, if any, do you hold?—A. United States commissioner.

Q. When were you appointed United States commissioner for the Cordova precinct?—A. About March 20, 1919.

Q. And when did you first assume the duties of this office?—A. About March 29, 1919.

Q. Were you previously a member of that branch of the United States Army, known as the Signal Corps branch?—A. I was.

Q. When did you enlist as a member of the Signal Corps of the United States Army?—A. April 3, 1911.

Q. Where?—A. El Paso, Tex.

Q. How long had you resided in Texas previous to that enlistment?—A. Four days.

Q. Where did you come from?—A. New York City.

Q. After enlisting, when did you arrive in Alaska, about?—A. July 6, 1911.

Q. And where were you stationed?—A. Fort St. Michael.

Q. That is at the mouth of the Yukon River?—A. Eighty miles from the mouth.



Q. When did your enlistment expire?—A. April 2, 1914.

Q. Where were you at that time?—A. St. Michael, Alaska.

Q. What were your duties at Fort St. Michael?—A. Telegraph operator.

Q. What did you do after your discharge in 1914?—A. Worked for the Quartermaster Department as a civilian and also on the *San Pedro*, which was a dredge at the mouth of the Yukon River.

Q. Then did you later reenlist in the Signal Corps Department?—A. Yes.

Q. When and where?—A. I enlisted August 25, 1914, at Seattle.

Q. How long had you been in Seattle, Wash., when you reenlisted in the Signal Corps of the United States Army?—A. I had arrived about five days previous to that date.

Q. Now, had you lived in Texas long enough to obtain a residence in Texas, previous to your first enlistment?—A. I had not.

Q. Had you lived in the State of Washington long enough to obtain a residence there?—A. I had not.

Q. On the second enlistment, what was the understanding as to where you would be placed in the service?—A. I enlisted for Alaska service.

Q. And did you come to Alaska again?—A. I did.

Q. What were your first duties after you reenlisted; first station or post?—A. On August 25 I was assigned to the cable ship *Burnside* as wireless operator.

Q. That is the cable ship that tends to the Alaska cables?—A. The Alaska cables; yes.

Q. How long did you remain on that ship as wireless operator?—A. About 14 months.

Q. Then what duties did you perform?—A. I got off the *Burnside* at Fort Lisicum, Alaska, in October, 1915, assigned to Copper Center as operator in charge of the telegraph station there.

Q. How long did you remain there?—A. Remained from November 6, 1915, until February 3, 1917.

Q. And where were you stationed then?—A. Valdez, Alaska.

Q. And when did your last term of enlistment expire?—A. August 24, 1918.

Q. After you were transferred from Copper Center to Valdez, Alaska, did you remain in Valdez from that time until you were discharged?—A. I did.

Q. I read you from the printed copy of a hearing before the Committee on Elections No 3, as follows:

"Contested-election case of Wickersham v. Sulzer, hearings before the Committee on Elections No. 3, House of Representatives, Sixty-sixth Congress, first session." On page 22 of this hearing Mr. Wickersham says:

"Then we can not trust the telegraph lines any longer. But the fact is that they are formed into a political organization and they control the men along that line in the use of the telegraph system so that every one of them votes the same way; they all have an organization, and they all get paid for it. I do not use "paid" there in the sense that money is handed out to them, but in this case a man by the name of Noaks, at Valdez, where the cables come to the shore, and through which telegrams for the Territory are scattered out, was the strong, influential fellow among those boys; and some 18 or 20 of them at the station had Noaks to run the political organization there for 1916 and 1918, and immediately after the 1918 election he was appointed to an office by the judge at that place. The Democratic judge there appointed him to the office of commissioner, and a commissioner makes him justice of the peace, probate judge, recorder, coroner, and gives all the rest of the power which is given to a commissioner. And Mr. Noaks now sits there as commissioner in Cordova precinct, although he is not yet a voter in the Territory of Alaska, because of his voting all these men at the election."

I ask you if that statement is true?

A. It is absolutely false.

Q. Where were you in 1916, at the time the election was held, on the 7th day of November, 1916, at which a Delegate to Congress was elected?—A. I was at Copper Center.

Q. Did you vote at that election?—A. I did not.

Q. Did you hear any discussion as to the relative merits of Mr. Wickersham or Mr. Sulzer for Delegate to Congress in the campaign of 1916 at Copper Center?—A. I did.

Q. And in that campaign whom did you favor, if anybody, in any of these discussions?—A. In 1916?

Q. Yes.—A. I favored Mr. Wickersham.

Q. With whom did you have discussions in and about Copper Center during 1916?—A. C. Parker Smith, commissioner; R. Blix, roadhouse man and postmaster; Charles Cowell; James Manken; and Frank Bingham.

Q. Mr. Wickersham has stated, as I just read to you, that you were the political manager for the boys in the Signal Corps for the years 1916 and 1918. Did you act as political manager for the Signal Corps boys in either of these years?—A. I did not; that statement is absolutely false.

Q. When did you first come to Valdez to take up your home there?—A. February 6, 1917.

Q. Now, on the election day, the 5th day of November, 1918, where was your residence?—A. At Valdez, Alaska.

Q. Did you have for residence any other State or Territory of the United States?—A. I did not.

Q. Were you, in the fall of the year 1918, pretty well acquainted with the members of the Signal Corps at Valdez?—A. I was.

Q. About how many Signal Corpsmen were stationed at Valdez, Alaska, on November 5, 1918, and for four or five months previous to that?—A. Between 17 and 21.

Q. Did you at times for three or four months previous to the election of November 5, 1918, hear any discussions among the members of the Signal Corps at Valdez as to their politics?—A. I did.

Q. Where did these discussions usually arise?—A. At the boarding house where we used to eat.

Q. Now, were the members of the Signal Corps at Valdez in 1918 residing on a Government reservation?—A. They were not.

Q. Where did they reside?—A. Some in their own homes in the town, the married ones, and others in other people's homes as boarders and roomers.

Q. They resided as other citizens at Valdez?—A. With and as other citizens resided.

Q. Do you know whether the members of the Signal Corps paid taxes on their property like other citizens there?—A. I know they did.

Q. Did any of the members of the Signal Corps take part in the municipal elections that were held in the town of Valdez in the spring of 1918?—A. They did.

Q. Was there any difference in their method of living in Valdez from the way other citizens lived?—A. There was not; they were earning a living, associating with other citizens of the town and willing to be such.

Q. And they made personal friends among those living in Valdez?—A. They did.

Q. Do you remember how many of the Signal Corps boys stationed at Valdez for the year 1918 married Valdez girls and young ladies who had lived in Valdez?—A. About seven.

Q. Do you know if any of those that married owned their homes in Valdez?—A. Some did.

Q. Did they live in them?—A. They did.

Q. And others, how did they live?—A. They rented houses.

Q. Now from the discussions that you have heard from the men of the Signal Corps, what would you say was their politics and what proportion did they stand?—A. From what discussions I heard, they stood two to one Republican.

Q. That is two-thirds Republican and one-third Democrat?—A. Yes.

Q. Did you ever hear them discuss the relative merits of Mr. Wickersham and Mr. Sulzer as Delegates to Congress?—A. I did.

Q. Well, what would you say as to how they were divided on that subject?—A. On the subject generally, they were more than evenly divided in favor of Mr. Wickersham.

Q. Was there any organization among the Signal Corps men to vote against Mr. Wickersham?—A. There was none.

Q. Was there any organization among the Signal Corps men to favor any particular side?—A. There was none.

Q. Are you a member of any profession?—A. I am.

Q. What?—A. Attorney at law.

Q. When were you admitted to practice law in the Territory of Alaska?—A. About October 15, 1918.

Q. Where admitted?—A. Valdez, Alaska.

Q. Were you examined by a committee of the bar appointed by the court?—A. I was.

Q. Who were members of that committee?—A. Mr. E. E. Ritchie, Mr. O. P. Hubbard, and Mr. T. J. Donohoe.

Q. Is Mr Ritchie, of whom you have just spoken, the E. E. Ritchie who appears as attorney for Mr. Wickersham in taking depositions at Valdez in this contest?—A. He is.

Q. What are the politics of Mr. Hubbard?—A. Republican.

Q. Is he generally reputed to be a Wickersham supporter?—A. He is, generally.

Q. Mr. Wickersham has stated at this hearing before the Elections Committee, No. 3, that you were appointed United States commissioner in Cordova, in payment for political services rendered for the Democratic party in general and for Mr. Sulzer in the general election held November, 1918; is that true?—A. It is absolutely false.

Q. Did you render any particular services to the Democratic Party or to Mr. Sulzer at that election?—A. I did not.

Q. Did any of the Signal Corps men take a positive and active hand in the election held November 5, 1918?—A. They did not.

Q. How come you to be appointed United States commissioner at the Cordova precinct?—A. As near as I understand it, Judge Brown has the appointment of this office.

Q. Judge Brown is the district judge for the Third division?—A. Yes, sir.

Q. How do you account for being appointed?—A. Well, in the summer of 1918, while studying law, I had many occasions to go up in the courthouse library and on one occasion Judge Brown sat opposite me reading at the table usually occupied by lawyers, and he asked me if I was studying law. I replied that I was and he told me that he would always be ready to give me every possible assistance within his power and also asked me to step into his chambers and showed me his library and told me I could borrow any of his private books at any time. On many occasions after that time, I used to go up into his chambers and talk with him on legal subjects and ask him legal questions to help me out generally, as a student would. He seemed to take an interest in my welfare as regards getting through with the law. About the beginning of 1919, some time in the month of January, I believe, Judge Brown sent for me to come to his chambers and asked me if I would accept the position of United States commissioner at Cordova. He told me the emoluments from the office were small and that there was not a living in it, but as I anticipated making law my profession and livelihood, it would be a good chance for me to make a start. After considering the situation, I told him I would accept the appointment upon being released from the Army.

Q. I believe that you stated that your enlistment expired in August, 1918?—A. Yes, sir.

Q. Had you put in an application to be discharged after the armistice was signed on November 11?—A. No; all discharges were suspended until after the termination of hostilities. That was the general understanding throughout the Army at that time.

Q. After the armistice was signed, you put in your application to be discharged?—A. Yes, sir.

Q. And when were you discharged, if you remember?—A. Some time about March 19 or 20, I believe.

Q. Did I ever make any request, or ask to organize the Signal Corps men into a Democratic organization for the purpose of having them vote against James Wickersham?—A. You did not.

Q. To what extent were you acquainted with me previous to coming to Cordova in the office of United States commissioner?—A. I only knew you by sight until about October, 1918, when I made application to take the bar examination and I found you one of the committee appointed by the court to examine me. Until that time I never knew you personally at all, even to speak to you.

Q. Did I ever make a statement to you or use any language from which you could draw the inference that if you organized the Signal Corps boys so as to vote against Mr. Wickersham that I would repay you in any manner by giving you an office or inducing Judge Brown to give you an official appointment?—A. You did not.

Q. About how much does your office as United States commissioner pay you per month, in Cordova?—A. About \$135 per month.

Q. Are you a married man?—A. I am.

Q. And your family is living with you in Cordova?—A. They are.

Cross-examination by Mr. DOOLEY, attorney for contestant :

Q. Mr. Noaks, when you were residing in Valdez at the time of the election on November 5, 1918, you were still a member of the Signal Corps, were you not?—A. I was.

Q. Did you vote at that election?—A. I did.

Redirect examination :

Q. Mr. Dooley, attorney for Mr. Wickersham, has asked you if you voted at the election, held the 5th of November, 1918, and you have answered that you did. Will you state how you come to vote at that election?—A. I come to vote for the reason that in 1914, Mr. Wickersham was asked by one of the members of the Signal Corps at Fairbanks—that was in the fall of 1914—and asked him whether Signal Corps men could vote. Mr. Wickersham replied that if they were citizens of the United States over the age of 21, within the Territory a year, and in the precinct 30 days, they could vote and it was their duty to vote.

Q. What was the name of this Signal Corps man?—A. Harry Shutts, sergeant of the Transport Corps, now at Valdez.

Q. Did Mr. Shutts inform you of this statement made by Mr. Wickersham to him?—A. He did.

Q. Before you voted at the November election in 1918?—A. Yes, sir.

Cross-examination :

Q. Mr. Noaks, were you present during the conversation between Wickersham and Shutts at the time of this conversation?—A. No, sir.

Q. What you have testified is what Mr. Shutts told you?—A. Yes, sir.

Redirect examination :

Q. Mr. Noaks, in your testimony you have stated that the office of United States Commissioner at Cordova, which you now hold, is paying you about \$135 a month; is that the gross receipts that you make from that office by way of commissions allowed you by law?—A. Yes, sir; gross receipts.

Q. Does the Government furnish you with an officer?—A. No, sir.

Q. What does your office rent cost you?—A. Twenty-five dollars a month.

Q. Does the Government furnish you with or allow anything for maintenance?—A. No, sir.

Q. What are the other expenses, about?—A. With heat and light and stationery and other minor expenses are about \$25 a month.

Q. What is the net receipts that you are making out that office since you had it?—A. From \$75 to \$90 a month.

Q. What hours is the commissioner's office kept open?—A. Nine in the morning until 5 o'clock in the evening, six days a week.

R. H. L. NOAKS.

DEPOSITION OF T. J. DONOHUE.

T. J. DONOHUE, a witness in behalf of contestee, George B. Grigsby, being duly sworn by Notary Public Hon. Frank H. Foster, to tell the truth, the whole truth, and nothing but the truth, testified as follows :

Direct examination by R. H. L. NOAKS, representing contestee, George B. Grigsby :

Q. State your name.—A. T. J. Donohoe.

Q. Where do you reside, Mr. Donohoe?—A. At present in the town of Cordova, Alaska.

Q. Are you the Democratic national committeeman for Alaska?—A. Yes, sir.

Q. Were you in Alaska during the two or three months preceding the general election on November 5, 1918?—A. Yes, sir; my residence then was in Valdez, Alaska.

Q. Did you take an active part in the campaign?—A. Yes, sir.

Q. I call your attention, Mr. Donohoe, to a document, Document No. 74, House of Representatives, Sixty-sixth Congress, first session, Delegate from Alaska: Letter from the Clerk of the House of Representatives transmitting a letter from Hon. James Wickersham, inclosing the original copy of a notice of contest and the petition and statement specifying particularly the grounds of this contest for a seat in the House of Representatives of the Sixty-sixth Congress as a Delegate from the Territory of Alaska. Page 16, section 16, of this article reads as follows :

"That the return of the judges of the election show that at the voting precinct of Copper Center, in the fourth judicial division of the Territory of Alaska, show that at the election held on the said 5th day of November, 1918, there were 10 votes cast, all of which said votes were, as stated by said return, cast for the contestee, Charles A. Sulzer, and were taken as true by said judges of election and counted, but as a matter of fact said votes should not be counted because the said election was illegal for the following reasons, to-wit: That one Lewis T. Erwin is United States marshal for the fourth judicial division of Alaska, and Thomas J. Donohoe is Democratic national committeeman for Alaska, and that both of said persons are friends and partisans of the contestee, Charles A. Sulzer, and managers of his political campaigns in the Territory of Alaska. That one R. Blix is now and for many years past has been a resident of Copper Center in the Territory of Alaska, at which place he is and has been owner of real estate and buildings in said Copper Center, and that the United States post office for said Copper Center is established in a building owned by said Blix, and that it would be a financial loss to the said Blix and a great inconvenience to the said community if the said post office should be moved from the said Copper Center. That this contestee, Charles A. Sulzer, wrongfully taking advantage of the said situation, through the aforementioned United States marshal and the aforementioned Democratic National Committeeman for Alaska, unlawfully threatened the said Blix and all the other residents of said Copper Center that unless they used their utmost endeavor to procure and did procure all of the electors at Copper Center to cast their ballots for said Charles A. Sulzer, contestee for the office of Delegate from Alaska at the election to be held at said precinct November 5, 1918, the said United States post office would be moved from said Copper Center, to the great injury of said Blix and the said community, and that although the said Blix and the other residents of the said community were political supporters of this contestant, James Wickersham, and would have cast their respective ballots for him at the said election had the said threats above-mentioned not been made, the said Blix and the said other electors, nevertheless, believing that the said threat so made by the said contestee would be carried into effect in case said electors of the community did not unanimously cast their vote at the said election for the said Charles A. Sulzer, for Delegate from Alaska, did contrary to their views and opinions as to what was for the best interests of the public generally, and contrary to what they believed to be right and just, unanimously cast their votes for the said Charles A. Sulzer. That for the reasons above stated and because the said votes were illegally obtained under threat of fraudulently using and employing the patronage of the said Charles A. Sulzer, the said Thomas J. Donohoe, and the said Lewis T. Erwin, the vote cast at the said Copper Center precinct should not be credited to this contestee, and that the election at Copper Center should therefore be held null and void."

What have you to say, Mr. Donohoe, in answer to that statement of Mr. Wickersham?

A. The statement, as a whole, is absolutely untrue. Of course, that portion of it wherein he says that I am a friend and was a friend of Charles A. Sulzer, and that I took an active part in the campaign in favor of Sulzer is true. Mr. Wickersham has made a mistake when he says that Copper Center is in the fourth judicial division; it is in the third judicial division. Mr. Lewis T. Erwin, the United States marshal, is in the fourth judicial division, with headquarters at Fairbanks, and is about 300 miles from Copper Center. Mr. Erwin, so far as I know, has never taken any active part in politics in Alaska. I know he has not taken any active part in procuring votes for the Democratic party or for Mr. Sulzer, in the third division.

I did not threaten Mr. Blix or any other person that either myself or Mr. Sulzer would use our political influence to move the post office from its then office site and place at Copper Center. Some time early in the spring of 1918, or possibly the latter part of 1917, Mr. Blix resigned as postmaster at Copper Center and had sold his roadhouse to a man by the name of Hans Ditman, and I understand that he promised Mr. Ditman that he, Blix, would secure for Mr. Ditman the appointment of postmaster to succeed him, and that promise was part of the concession that induced Mr. Ditman to purchase Blix's roadhouse. However, the first I knew anything of the change or the intention of changing the postmaster at Copper Center, I received a request from Mr. John McCrary, who also conducted a roadhouse at Copper Center at a short distance farther up the military road from Mr. Blix's place, asking me to indorse him for postmaster. I investigated the matter a little and



found that there was probably as much of the community of Copper Center residing close to McCrary's roadhouse as there was near Mr. Blix's. The Government Experimental Farm was just across the road from McCrary's place, the Government school teacher resided close to Mr. McCrary's place, and I believe some other people resided in that immediate vicinity. I recommended to the First Assistant Postmaster General the appointment of Mr. McCrary as postmaster at Copper Center and he was appointed. But about this time I received several communications from Mr. Blix and other people in Copper Center asking me to recommend the appointment of Mr. Hans Dittman. McCrary, after getting his appointment, failed to qualify; I believe he had some difficulty to procure his bond; in any event, he did not qualify. I then recommended at the request of Mr. Blix, Charles Cowles, and quite a few of the other residents of Copper Center, the appointment of Mr. Hans Dittman, and he was appointed postmaster at Copper Center. This all took place some time previous to the 15th of June, 1918. I made no condition, whatever, regarding my recommendation for the appointment of Mr. Hans Dittman as postmaster at Copper Center. In June, 1918, I went out to the States and did not return until the latter part of August. The matter regarding the post office was entirely settled long previous to the opening of the campaign for the election held November 5, 1918. I never, at any time, made any threat of removing the post office or made a condition that if the post office remained in Mr. Blix's roadhouse that the Copper Center people would vote for Charles A. Sulzer or would vote for any other person. I do not recollect having any correspondence on the subject subsequent to the 15th day of June, 1918, and each and every statement made by Mr. Wickersham in regard to threats made by Charles A. Sulzer, Lewis T. Erwin, or myself, is absolutely false. The subject was entirely closed previous to the 15th of June, 1918, and was not reopened. This spring, in the spring of 1919, Dittman sold the Blix roadhouse and gave it up, and I was requested by the people living in Copper Center, through Mr. Charles Cowles, to recommend a man by the name of Glass to succeed Mr. Dittman as postmaster of Copper Center, and upon making the recommendation, Mr. Glass was appointed postmaster at Copper Center.

Q. I call your attention, Mr. Donohue, to document 74, page 19, section 20, which reads as follows:

"That at the election at the Sourdough voting precinct in the third judicial division, on the 5th day of November, 1918, 12 votes were cast, of which 5 votes were cast for this contestant, James Wickersham, and 7 for contestee, Charles A. Sulzer, and the judges of election at said precinct, in the certificate of results at said election, stated said number of votes as having been cast for each of said candidates, which certificate was accepted as true and correct by the Territorial canvassing board in canvassing the result of said election and in deciding upon the number of votes cast for each candidate. That the aforementioned number of votes cast for the contestee at said precinct should be wholly eliminated, and the number of votes cast for contestant at said precinct should be increased by 15 votes, for the following reasons, to wit: That at the previous elections held in the said Sourdough election precinct the polling place had been established at the Sourdough road house, which is situated approximately in the center of said election precinct, and was well known and generally recognized as the polling place for said precinct. That in the immediate neighborhood of said Sourdough road house there were not less than 15 legally qualified electors who were friends and political supporters of this contestant, and who would have voted for contestant at this election had they been afforded an opportunity to do so, and had the polling place in said precinct remained at the said Sourdough road house; but that William O'Connor, the United States commissioner for the Chitina recording district, wherein said Sourdough voting precinct is situated, well knowing that by changing the polling place in said Sourdough voting precinct from the Sourdough road house to the Gulkana road house, 22 miles distant and in the farthest corner of said voting precinct, would deprive at least 15 friends and political supporters of this contestant of an opportunity to cast their vote for this contestant at said election and deprive this contestant of the benefit of the votes of his said 15 friends and supporters in the immediate vicinity of the Sourdough road house, did so change the polling place for said precinct from the said Sourdough road house to the Gulkana road house, whereby said persons residing in said precinct were disfranchised and this contestant thereby was fraudulently deprived of the votes of said 15 electors who would have cast their votes for contestant but for said fraudulent acts."

A. In this matter, Mr. Wickersham complains against the action of William O'Connor, commissioner of the Chitina recording district, on account of him changing the polling place of the Sourdough voting precinct from the Sourdough road house to the Gulkana road house. The Sourdough road house is at the northerly end of the Sourdough voting precinct. In the election of 1916 there were but 5 votes cast at that polling place, being at the Sourdough road house; and as I remember the returns for the 1914, there were but 5 votes cast in this precinct, and the voting place was in that year at the Sourdough road house; and there had been considerable complaint made by a number of the prospectors and miners living in the vicinity of the Gulkana road house that they had a great many more votes than there was in the vicinity of the Sourdough road house, and that the voting place should be transferred to Gulkana.

As I remember the election returns of 1914, the 5 votes cast in the Sourdough precinct were cast for James Wickersham, in 1916 the 5 votes cast in this precinct were cast for James Wickersham, in the election of 1918, with the voting place at Gulkana, Mr. Wickersham still received his 5 votes. By having changed the voting place to Gulkana and enabling a number of other voters in this precinct to vote, there were 7 votes cast for Sulzer and 1 for Conley, the Socialist candidate, so by making the change of the voting place it enable 13 electors to vote as against 5 voting at the previous elections and Mr. Wickersham still got his usual 5 votes in this precinct.

Q. I call your attention to section 21 of the document No. 74, which reads:

"That the laws pertaining to elections in Alaska provide that no voting precinct shall be established unless there are at least 30 qualified electors in such precinct, and also provide that there shall be only one polling place in each voting precinct. That nevertheless, and for the purpose of violating the law and affording special advantages to the contestee and his friends, the United States commissioner for the Chitina recording district, one William O'Connor, at the behest of contestee and the Democratic national committeeman, Thomas J. Donohoe, created during the month of September, 1918, the Kuskulana voting precinct, although he and they then and there knew that there were not 30 qualified electors in said precinct, and they then and there established in said Kuskulana voting precinct two separate and distinct polling places, in all violation of law, one of which polling places was designated as Kuskulana No. 1 and the other as Kuskulana No. 2. That the judges of election in their certificates of the result of said election at said Kuskulana No. 1 polling place, certified that the following vote had been cast at said polling place, to wit: For James Wickersham, contestant, 1 vote; for Charles A. Sulzer, contestee, 11 votes; and the judges of election at said Kuskulana No. 2 polling place, in their certificate of the result of said election, certified that the following vote had been cast at said polling place, to wit: For James Wickersham, contestant, 2 votes; for Charles A. Sulzer, contestee, 4 votes; and that the Territorial canvassing board for the Territory of Alaska, accepted said certificates as true and correct in canvassing the returns of said election and in deciding upon the number of votes received by each candidate at said election. That for the reasons above stated the said certificates are null and void and should be eliminated from the results of said election."

A. Referring to subdivision 21 of this document, Mr. Wickersham complains against the action of Mr. William O'Connor, commissioner in the Chitina recording district, on account of creating two voting places in the Kuskulana voting precinct. The situation in this voting precinct is this: It covers a very large area of country lying between the voting precinct of Strelma and the voting precinct of McCarthy and is situated in the Copper River Valley. During the summer of 1918 there were two rather central camps in this large precinct. They were situated at a distance of about 20 miles apart with only one voting place. It meant that a number of the miners and prospectors would be unable to vote on election day. The voting precinct could not be divided into two precincts as there were not enough legal voters in each of the precincts. Judge O'Connor first created the Kuskulana precinct and established the polling place at the point where Mr. Wickersham designated as No. 1. Later all the miners in the other section, a distance of about 20 miles from the first voting place, as fixed by Judge O'Connor, protested that they could not make the trip to that point to vote and asked Judge O'Connor to create an additional polling place there, terming it Kuskulana No. 2, which he did. If there was any illegal voting in this election precinct, it would be that voting in Kuskulana No. 2, as the first precinct was already created. In the first precinct Mr. Sulzer re-

ceived 11 and Mr. Wickersham 1 vote; in the second precinct Mr. Sulzer received 4 votes and Mr. Wickersham 2. There was no fraud committed in any manner in connection with the creation of this additional voting place. It was made simply to enable some of the prospectors and miners to vote. I believe there was also cast at Kuskulana No. 2 polling place one or two votes for the Socialist candidate, Mr. Conley. The additional polling place in this precinct was not created at the request of the Democratic organization, but it was created at the direct request of the miners and prospectors who were endeavoring to develop the country.

Q. Mr. Donohoe, I call your attention to this document, House resolution 105, "Contested-election case of James Wickersham v. Charles A. Sulzer." On page 22, below the center of the page, Mr. Wickersham says:

"The Democratic organization. Then we can not trust the telegraph lines any longer. But the fact is that they are formed into a political organization and they control the men along that line, in the use of the telegraph system, so that every one of them votes the same way; they all have an organization and they all get paid for it. I do not use 'paid' there in the sense that money is handed out to them, but in this case a man by the name of Noaks, at Valdez, where the cables come to the shore and through which the telegrams for the Territory are scattered out, was the strong influential fellow among these boys, and some 18 or 20 of them at that station had Noaks to run the political organization there for 1916 and 1918, and immediately after the 1918 election he was appointed to an office by the judge at that place. The Democratic judge there appointed him to the office of commissioner, and a commissioner makes him justice of the peace, probate judge, recorder, coroner, and gives all the rest of the power which is given to a commissioner. And now Mr. Noaks sits there as commissioner in Cordova precinct, although he is not yet a voter in the Territory of Alaska, because of his voting all these men at the election."

A. In this statement by Mr. Wickersham at the hearing before the Committee on Elections No. 3, as appearing in the printed document, regarding House Resolution 105, in relation to the Signal Corps men at Valdez, the statement is absolutely untrue. Mr. Noaks did not run any political organization among the Signal Corps boys at Valdez for the benefit of the Democratic Party or for the benefit of Mr. Sulzer, during the campaign and at the election on November 5, 1918, and, so far as I know, have any of the members of the Signal Corps stationed at Valdez at the November election who voted did so in accordance with their respective political parties. I have been told that a number of them voted for Wickersham, and I think some of them may have voted for Mr. Sulzer, but it is my opinion that of those who did vote, there are surely as many voted for Mr. Wickersham as did for Mr. Sulzer.

The statement made by Mr. Wickersham that Mr. Noaks was given the appointment of the United States commissioner at Cordova in payment for services rendered by him in securing the votes of the Signal Corps men at Valdez in behalf of Mr. Sulzer is absolutely false. Some time early in 1919 Judge Fred M. Brown, the United States district judge for the third division, called me into his chambers and told me that Mr. Edward F. Medley had resigned as commissioner at Cordova and asked me if I knew anyone who would make a satisfactory commissioner at that place. I told him I thought I did, and suggested to him the appointment of Mr. Charles Derry, who was then assistant editor of the Cordova Daily Times, and who had taken an active part for the Democratic Party in the campaign of 1918. Judge Brown asked me to communicate with Mr. Derry to see if he would accept the appointment. I did so. Mr. Derry refused the appointment on the ground that it did not pay money enough. I think for the three previous quarters; that is, previous to the 1st of January, 1919, the office paid somewhere around \$100 a month. A week or so later, I stated to Judge Brown that Mr. Derry would not accept it. Judge Brown stated that he would like to get a young lawyer for the appointment, as he had found from experience that a lawyer handled the commissioner positions much better than a person who was not versed in the law. Judge Brown then said he had a man in mind, and mentioned Mr. Noaks's name. He asked me if I was one of the committee that examined Mr. Noaks a few months previous for his admission to the bar, and I stated that I was. He asked me what I thought of his ability to handle the situation at Cordova, so far as his legal attainments were. I informed Judge Brown that I believed Mr. Noaks would be a good commissioner and that he had the qualifications to handle the position. He told me that he would

send for Mr. Noaks and interview him. A few days later he told me that he promised Mr. Noaks the appointment, if he got discharged from the Army by the end of the present quarter, which expired on the last day of March, 1919. That is the entire and only connection that I had with the appointment of Mr. Noaks as commissioner at Cordova. He was not appointed as a reward for any political services either by himself or any members of the Signal Corps; he was appointed solely because Judge Brown believed he would make a good commissioner and had the legal qualifications to make a commissioner. I never requested Judge Brown to appoint Mr. Noaks to this position or to any other position, and the appointment was made by Judge Brown without any solicitation or request by the Democratic organization.

No cross-examination.

T. J. DONOHUE.

DEPOSITION OF WILLIAM R. GERRIE.

WILLIAM R. GERRIE, a witness on behalf of contestee, George B. Grigsby, was duly sworn to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

Direct examination by T. J. DONOHUE, attorney for contestee.

Q. State your name.—A. William R. Gerrie.

Q. Where were you born?—A. I was born in Canada.

Q. How long have you lived in Alaska?—A. About 22 years.

Q. Have you ever been naturalized?—A. No, sir.

Q. Were you in Cordova on the 5th day of November, 1918, at the time there was a general election held for the purpose of electing a Delegate to Congress from the Territory of Alaska?—A. Yes, sir.

Q. Were you at the time of the holding of that election a citizen of the United States?—A. No, sir.

Q. Did you vote on that date?—A. Yes, sir.

Q. For whom did you vote?

Mr. DOOLEY. I object to the question unless the witness is fully advised in regard to the matter. He may state, but has the right not to say for whom he voted.

Mr. DONOHUE. Counsel for contestee states to the witness that a lawful voter can not be compelled to disclose for whom he voted, but that a noncitizen who voted at that election for Delegate is not a lawful voter, and therefore can be compelled to answer for whom he voted in the election held the 5th day of November, 1918, at which a Delegate to Congress from Alaska was elected. I insist that the witness answer the question.

Mr. DOOLEY. I further object on the ground that the witness voted under the Australian ballot, and section 44 of Ordinance 35 makes it a misdemeanor for stating for whom he voted.

Mr. DONOHUE. Counsel for contestee states that the ordinance cited by counsel for the contestant applies to city elections, municipal elections of the town of Cordova has no bearing whatever upon the general territorial elections, such as the election held on the 5th day of November, 1918, and insists on the witness answering the question. Read the question.

(Question read.)

A. James Wickersham.

Q. You voted for James Wickersham for Delegate to Congress on the 5th day of November, 1918?—A. Yes, sir.

Cross examination by Mr. DOOLEY, attorney for contestant.

Q. Mr. Gerrie, you claim you have lived in Alaska 22 years?—A. Yes, sir.

Q. How many times have you voted?—A. That I could not say; several times.

Q. You voted several times at Territorial and other elections?—A. Yes, sir.

Q. Did you know at that time that you were not an American citizen?—A. I did not; I had my first papers.

Q. Your first papers?—A. I took out my first papers in 1910.

Q. And you thought that those papers were all that were necessary for voting for President?—A. I did.

Q. Mr. Gerrie, you signed that affidavit that when you voted for James Wickersham you was not a citizen of the United States. Do you realize that signing that same affidavit would not stop any legal citizen, it is to stop an illegal voter?—A. I was forced to do so, so what could I do?



Q. What do you mean by forced?—A. I was subpoenaed on the jury at Valdez and then was excused for not being an American citizen. after I had voted. I was first subpoenaed and found out by mistake that I was not entitled to vote and was not an American citizen.

Q. You are just as sure as your testimony that you thought you was an American citizen when you voted?—A. Yes, sir.

Redirect examination:

Q. The first time you learned that you were not entitled to vote for Delegate to Congress was when you were subpoenaed as a juror to appear at a term of the district court held at Valdez last June. was it not?—A. Yes, sir.

Q. On your affidavit, at that time that you be excused as a juror, you stated that you had not taken out your final papers and that you were instructed that you were not entitled to vote for Delegate to Congress for the reason that you were not an American citizen, did you not?—A. Yes, sir.

Q. Did you say you voted for Delegate to Congress on November 5, 1918?—A. Yes, sir.

Q. Before November 5, 1918, you were aware, were you not, that a person who has taken out their first papers can vote in Alaska at municipal elections, but can not vote in general elections? Those elections at which you voted previous to November 5, 1918, were mostly municipal elections, were they not?—A. They were mostly city elections.

Q. The time you voted on the 5th day of November, 1918, you believed you were entitled to vote at that election?—A. I believed that I was entitled to vote.

Cross-examination:

Q. You stated that you were excused from the jury; was it 1918 or 1919?—A. 1919.

WM. R. GERRIE.

#### CERTIFICATE OF NOTARY.

I, Frank H. Foster, a notary public in and for the Territory of Alaska, duly commissioned, sworn, and qualified, do hereby certify that the pleadings affixed to these depositions, together with the notice of taking said depositions, were presented to me by T. J. Donohoe, attorney for Contestee George B. Grigsby, before the taking of said depositions, and have been attached hereto by me and made a part of these depositions.

I further certify that the witnesses named in the foregoing depositions, to wit, Mrs. Hans Hansen, Gust Cozakas, George E. Walker, Arthur H. Pinkus, K. G. Robinson, R. H. L. Noaks, T. J. Donohoe, William R. Gerrie, were by me each duly sworn to tell the truth, the whole truth, and nothing but the truth before giving their said deposition; that thereupon said depositions were taken, at the time and place mentioned in the annexed notice of taking depositions, to wit, at my law office in the town of Cordova, Territory of Alaska, commencing at the hour of 2 o'clock in the afternoon and ending at the hour of 5 o'clock of the 19th day of September, 1919; that said depositions were taken in shorthand by Frank Burns, stenographer, and by him reduced to typewriting; that after said depositions had been reduced to typewriting they were carefully read by me to each of said witnesses and the deposition of each witness corrected by the respective witness and subscribed and sworn to by each respective witness in my presence.

That there was present at the time and place of taking said depositions T. J. Donohoe, attorney for contestee, George B. Grigsby, who conducted the direct examination for and on behalf of said contestee, and George Dooley, attorney for contestant, James Wickersham, who conducted the cross-examination of said witnesses for and on behalf of said contestant.

That the foregoing depositions contain a full, true, and correct transcript of the testimony given by each of said witnesses at the time and place aforesaid; also contains a full, true, and correct transcript of all objections interposed to said testimony at the time and place of taking said depositions by the attorney for the respective parties; also contains a full, true, and correct transcript of all statements made by the attorneys of the respective parties relative to said testimony; also contains all original exhibits introduced in evidence at the time of taking said depositions, to wit: "Contestee's Exhibit A, attached to the deposition of Gust Cozakas, being an affidavit made by Gust Cozakas on the 15th day of September, 1919; contestee's Exhibit B, attached to the deposition of George E. Walker, being an affidavit made by Frank H. Foster on the 18th day of September, 1919; contestant's Exhibit 1, attached



to the deposition of Arthur H. Plukus, being an affidavit of Arthur H. Plukus, made the 21st day of August, 1919":

In witness whereof I have hereunto set my hand and affixed my official seal at Cordova, Alaska, this 6th day of October, 1919.

[SEAL.]

FRANK H. FOSTER,

*Notary public for the Territory of Alaska.*

My commission expires April 6, 1923.

NOTICE OF TAKING DEPOSITIONS.

*To the Hon. James Wickersham, contestant, and J. L. Reed, his duly authorized agent:*

You and each of you will please take notice that the testimony by deposition of the hereinafter-named witnesses, on behalf of the above-named contestee will be taken before Frank J. Hayes, anotary public for the Territory of Alaska, at the dates and places hereinafter stated:

First. The testimony of P. F. Vian, Fred Tooko, Mike Bayo, Camille McGowan, Fred Balashoff, George Anocknick, Andrew Dolchok, A. Alexanderoff, Alex Fox, Nikita Fox, Fred Bowen, Nick Sarakoff, John Renner, Simon Mercure, Samuel Mercure, Joe Loco, Lizzie Markle, Senophant Malutin, Julian Chichenoff, Constantine Luko, S. Gussoff, George Kalanga, I. J. Stere, S. P. Oskoloff, Nick Mishikoff, Alex Beristoff, Steve Hornyak, B. G. Goodman, Albert Ulander, Varsa Lukanon, Anton Dolchak, John Taleknak, J. A. Hart, S. Stoffer, Lizzie Block, Mrs. George R. King, Agnes Barnes, R. B. Markle, C. W. Harrington, Mrs. C. W. Harrington, J. R. Crittenden, and other witnesses whose names to the contestee are unkuown, all of whom reside at or near Seldovia, Alaska, will be taken at the office of the deputy United States marshal at Seldovia, Alaska, on or about the 19th day of September, 1919, at the hour of 3 o'clock p. m., or as soon thereafter as possible, after the arrival of the steamship *Admiral Watson* at Seldovia on her voyage now scheduled to sail from the city of Seattle, State of Washington, on or about the 10th day of September, 1919.

Second. The testimony of Karl Armstrong, P. D. Blodgett, Cecil King, Father Kashavaroff, and other witnesses whose names to the contestee are unknown, all of whom reside at or near Kodiak, Alaska, will be taken at the office of the deputy United States marshal at Kodiak, Alaska, on or about September 22, 1919, at the hour of 10 o'clock a. m. of said day, or as soon thereafter as possible after the arrival of the steamship *Admiral Watson* at Kodiak on her voyage now scheduled to sail from the city of Seattle, State of Washington, on or about the 10th day of September, 1919.

Third. The testimony of Ivan Derenoff, Simeon Bresetoff, Ivan Alhoon, Xenophant Gregioff, Logan Chanun, Radio Malutin, Mafrey Agick, Tumofry Naya, Ivan Gregorioff, Gregory Yakonak, Wasele Eshnwak, John Yakonak, Alexander Lukin, Alex. Knagin, sr., Nastacia Kilegman, Charles W. Pajomah, Wasele Apolon, Paul Nekrasoff, Alexandra Nekrasoff, Matrona Pajoman, Michael Boskosfsky, Nicholai Shangin, Sergay Sharatin, Emellian Petellin, Alenxander Simeonoff, Alfred Nelson, Martin Larsen, John P. Johansen, John J. Keegan, Louis Berg, Julius Forsman, John Taushwak, Nikolai Agick, and other witnesses whose names to contestee are unknown, all of whom reside at or near Afognak, Alaska, will be taken at the public-school house at Afognak, Alaska, on or about the 23d day of September, 1919, at the hour of 1 o'clock p. m. of said day, or within 24 hours after the arrival of the steamship *Admiral Watson* at Kodiak, Alaska, upon her voyage now scheduled to sail from the city of Seattle, State of Washington, on or about the 10th day of September, 1919.

Hereof you will take due notice.

GEORGE B. GRIGSBY,

*Contestee.*

By ANTHONY J. DIMOND,

*Agent and Attorney for Contestee.*

Service of the above and foregoing notice is hereby accepted at Valdez, Alaska, this 12th day of September, 1919.

JAMES WICKERSHAM,

*Contestant.*

By J. L. REED,

*Authorized Agent for Contestant.*

Be it remembered that pursuant to the statutes of the United States relative to the contest in the election case and proceedings in the case of James

Wickersham v. Charles A. Sulzer and James Wickersham v. George B. Grigsby, contesting the election case in the House of Representatives for the right to a seat as Delegate from the Territory of Alaska, and pursuant to the hereto attached notice of taking depositions on behalf of contestee, George B. Grigsby, said parties appeared before Frank J. Hayes, notary public for Alaska, at the schoolhouse at Afognak, Alaska, on the 23d day of September, 1919, and at the hall of Paul Chichenoff at Afognak, Alaska, on the 24th day of September, 1919, there being present Frank J. Hayes, notary public; Fred Sargent, interpreter; Carl Almy, appearing as attorney for George B. Grigsby, contestee; and George Sexton, appearing for James Wickersham, contestant, the following proceedings were had:

DEPOSITION OF MARTIN LARSEN.

Direct examination by Mr. ALMY:

Q. State your age, name, and residence.—A. Martin Larsen; born 1860; reside at Afognak, Alaska.

Q. How long have you lived at Afognak?—A. Since 1893.

Q. Were you a judge of election at the election held on November 5, 1918?—A. Yes.

Q. I hand you herewith a list of names purporting to be a copy of the registration book for Afognak for the election held November 5, 1918, for Delegate to Congress and ask you if this a copy of the registration book and a list of the persons registered at said election?—A. Yes.

Mr. ALMY. The notary will please mark this registration list "Exhibit A" and make and file it as a part of the records of this proceeding.

Q. Did all the persons whose names appear on the list submitted to you vote at the election held on November 5, 1918?—A. Yes.

Q. Are you acquainted with the natives of the Aleut village of Afognak?—A. Yes.

Q. Are you acquainted with the inhabitants of the Creole village of Afognak?—A. Yes.

Q. You were at Afognak on November 5, 1918, as a judge of election?—A. Yes.

Q. Do you know the residents of Afognak—which ones are Aleuts and which are Creoles?—A. Yes.

Q. Is Ivan Alhoon, who voted on election day, November 5, 1918, an Aleut? (Objection by attorney for James Wickersham that name Evan Alhoon is not on list of supposed voters for examination.)

Mr. ALMY. Contestee desires record to show that the only difference in the name as spelled in Exhibit A and as spelled in the notice of taking of depositions is in the spelling of the first name "Evan," which appears in the notice of taking of deposition spelled "Ivan."

A. I can't say whether or not he is an Aleut.

Q. Where does he live?—A. In Aleut town.

Q. He lives with the rest of the Indians?—A. Yes; he lives in the Aleut village.

Q. Is Ivan Derenoff, who voted on November 5, 1918, at said election, an Aleut?—A. I believe he is.

Mr. SEXTON. Same exception as to the first witness, on account of spelling of name.

Contestee desires to state that it is merely a clerical error with the spelling of Evan with an "I" instead of an "E."

Q. Do you know Simeon Berestoff, and is he an Aleut?—A. I know him; he is Creole, I believe.

Q. Is Mafrey Agick an Aleut? Where does he live?—A. Yes, sir; he lives in the Aleut village.

Q. Is Wasele Apolon an Aleut, and where does he live?—A. I don't know him; believe he lives at Uganik.

Q. Is Michael Boskofsky an Aleut, and where does he live?—A. He is an Aleut and lives in Creole town.

Q. Is Logan Chanun an Aleut and where does he live?—A. He is an Aleut and lives in Aleut village.

Q. Is Radlon Malutin an Aleut and where does he live?—A. He is a Creole and lives in Creole village.

Q. Is Wasele Eshnwak an Aleut and where does he live?—A. He is an Aleut and lives in Aleut village.

Q. Is Nastacia Kilegman an Aleut and where does she live?—A. She is an Aleut and lives in the Aleut village.

Q. Is Tumofry Naya an Aleut and where does he live?—A. I don't know what he is; he lives in Aleut town now.

Q. Is John Taushwak an Aleut?—A. Yes, sir; he lives in the Aleut village.

Q. Is John Yakonak an Aleut, and where does he live?—A. I can't say. He lives in the Aleut village?

Q. Is Gregory Yakonak an Aleut, and where does he live?—A. I can't say; he lives in the Aleut village.

Q. Is Ivan Gregorioff an Aleut?—A. No, sir.

Q. Is Alexandra Nekrasoff an Aleut and where does she live?—A. She is a Creole, I believe.

Q. Is Nicholai Shangin an Aleut and where does he live?—A. I don't know him.

Q. Was any assistance given voters in helping to make out their tickets at Afognak at the election on November 5, 1918?—A. No.

Q. Do you know whether the Aleuts and Creoles with regard to whom you have just been questioned can read or write English?

Mr. SEXTON. I wish to enter a general objection to all answers and questions as regards the nationality as to whether they are Creoles, Aleuts, or natives referred to in these questions by this witness, as he stated he could tell who were Aleuts and who were Creoles and has failed in five instances.

Q. Do you know whether the Aleuts in Afognak have a chief?—A. Yes, sir; they have a chief.

Q. What is his name?—A. John Taushwak.

Q. Do the Aleuts live together by themselves?—A. No; there is three or four white men living around them.

Q. The Aleuts living at Afognak live in one part of town?—A. Yes.

Q. Has the chief of the Aleuts any control over the Aleuts and is he generally obeyed?—A. He has some kind of control over them.

Q. Do you know whether many of the Aleuts can read and write English?—A. I can't say. The Aleut chief can write and read.

Q. Do you know anything about the fishing reservation on the waters adjacent to Afognak as to whether or not it has been reserved for Alaska natives?—

A. I know the natives from Afognak can fish in these waters.

Q. Can any white man fish in these waters adjacent to Afognak who is not married to a native?—A. No.

Q. It is a reserve made for Alaska natives?—A. Yes.

Mr. SEXTON. Referring to the compiled laws of Alaska, 1913, which contains verbatim all reservations made by the President of the United States in regard to fish preserves, forestry reservations, and all other reservations made in this vicinity which particularly specifies that all regulations made in these reservations do not affect citizens as regarding their qualifications as citizens or voters.

#### Cross-examination by Mr. SEXTON:

Q. You say that the Aleuts have a chief, who has control over the Aleut village and natives?—A. Yes, sir.

Q. In what way does this chief control these natives?—A. In case of fixing up town he tells the natives to come out and give a hand, working on the road, putting gravel around church, etc.

Q. Do these people under this chief belong to the Greek Church?—A. Yes.

Q. They go to school?—A. Yes.

Q. They live in houses?—A. Yes.

Q. Each family has a house by himself?—A. Yes.

Q. They wear white man's clothes?—A. Yes.

Q. They are subject to all Federal officers in this division, like the marshal here, and obey him?—A. Yes.

Q. Their children go to school?—A. Yes.

Q. They obey the rules of the school board?—A. Yes.

Q. Their children learn to read and write?—A. Yes.

Q. Nearly all of the parents of these children that go to school can read and write?—A. No; however, some of them can read and write.

Q. They don't live as a tribe of Indians?—A. No.

Q. They live just the same as white people?—A. Yes.

#### Redirect examination by Mr. ALMY:

Q. Can the men and women whom you have stated in your direct examination to be Aleuts or living in the Aleut village read and write the English language?—A. No.

Q. Do the Aleuts live in log houses?—A. Yes.

Q. Have they a chief who has general supervision over their affairs?—A. Yes.

Q. Isn't that the manner in which the Indian tribe of Alaska have lived during your experience in Alaska?—A. I don't know which way the Indians of all Alaska lived.

Q. Is that the way the Indians of Afognak lived?—A. Yes.

Recross-examination by Mr. SEXTON:

Q. Do any of these people whom you call Aleuts live in frame houses?—A. Yes; they live in both frame and log houses.

Q. They have about as many frame houses as they do log houses?—A. No; they have mostly log houses.

Q. That is because it is easier for them to get logs than to get lumber?—A. Yes.

MARTIN LARSEN.

Subscribed and sworn to before me this 23d day of September, 1919.

[SEAL.]

FRANK J. HAYES,  
*Notary Public for Alaska.*

My commission expires May 19, 1921.

DEPOSITION OF EVAN DERINOFF.

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. What is your name and where do you live?—A. Evan Derinoff; I live in Creole village of Afognak.

Q. Can you read and write the English language?—A. No; I can read and write Russian, however.

Q. Did you vote at the election held at Afognak November 5, 1918, at which a Delegate to Congress was voted for?—A. I did.

Q. Who marked your ballot for you?—A. John Falstad marked it for me.

Q. Where did he help you mark your ballot?—A. In this schoolroom.

Q. Where did you vote?—A. In this schoolroom.

Q. Did you vote for Delegate to Congress on November 5, 1918, in the schoolroom at Afognak?—A. No; I voted in Chichenoff's house.

Q. Who did you vote for?

Mr. SEXTON. The witness does not have to answer this question, and I object to the question.

A. I voted for Wickersham.

EVAN DERINOFF.

Subscribed and sworn to before me this 23d day of September, 1919.

[SEAL.]

FRANK J. HAYES,  
*Notary Public for Alaska.*

My commission expires May 19, 1921.

DEPOSITION OF MATFREY AGICK (OR METFAY AGICK).

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. State your name and where you live.—A. Metfay Agick; I live in the Aleut village.

Q. Can you read or write the English language?—A. No.

Q. Do you talk the Aleut language?—A. Yes.

Q. Can you read or write the Russian language?—A. No.

Q. Did you vote at the election held at Afognak on November 5, 1918, at which a Delegate to Congress from Alaska was voted for?—A. Yes; I voted.

Q. Who helped you mark your ballot?—A. I think, Emallian Petellin.

Q. Who did you vote for?

Mr. SEXTON. I object; and I want the interpreter to tell the witness he don't have to tell unless he wants to.

Mr. ALMY. You will explain to the witness through interpretation that this is the attorney for James Wickersham, the contestant, who is instructing him not to answer, and you will also tell him that if he refuses to answer a legal question he is subject to a fine.

A. I voted for Wickersham.

Q. Where did you vote at this election; I mean the place?—A. Maybe here.

Q. Where do you mean by maybe here?—A. Here in Afognak.

Q. Where in Afognak?—A. Paul Chichenoff's house.

Q. Did you put the ballot in the box yourself?—A. Yes.

Mr. ALMY. That is all.

Cross-examination by Mr. SEXTON:

Q. Are you an Aleut, Russian, or Creole?

Mr. ALMY. I object as not proper cross-examination.

A. I am an Aleut.

METFAY (his x mark) AGICK.

Witnesses to mark of Metfay Agick:

GEO. SEXTON.

CARL ALLNUT.

Subscribed and sworn to before me this 23d day of September, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

My commission expires May 19, 1921.

#### DEPOSITION OF ALEXANDRIA NEKRASOFF.

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. What is your name and where do you live?—A. Alexandria Nekrasoff; I live in Afognak.

Q. Are you an Aleut?—A. No; I am a Creole.

Q. What part of Afognak do you live in?—A. Just a short distance beyond Petellin's store in Afognak proper.

Q. Who is your husband?—A. Paul Nekrasoff.

Q. Is he an Aleut?—A. No; creole.

Q. Can you read and write the English language?—A. I cant' read or write English.

Q. Can you talk the Aleut?—A. Yes.

Q. Can you read and write the Russian language?—A. No.

Q. Did you vote at the election held in Afognac on November 5, 1918, at which a Delegate to Congress from Alaska was voted for?—A. Yes.

Q. Who helped you mark your ballot?—A. Mr. Petellin.

Q. Was your father an Aleut or Creole?—A. A Creole.

Q. Who did you vote for?

Mr. SEXTON. I object. The interpreter will tell the witness that she does not have to answer unless she wants to.

A. I voted for Wickersham.

Q. Who told you to vote for Wickersham?—A. Nobody.

Cross-examination by Mr. SEXTON:

Q. You live in a house the same as the white people here?—A. Yes.

Q. Do you belong to church?—A. Yes.

Q. You have furniture the same in house as Mr. Petellin and other people who live here?—A. We have chairs and tables.

Q. Do you raise gardens?—A. Yes.

Q. Do you have chickens or a cow?—A. Yes.

Q. You make butter?—A. Yes; we make butter for our own use.

Q. You have children?—A. One boy, 13 years old; he is adopted by us.

Q. He goes to school, reads, and writes?—A. Yes.

ALEXANDRA (her X mark) NAKRASOFF.

Witnesses to mark:

GEO. SEXTON.

CARL ALMY.

Subscribed and sworn to before me this 23d day of September, 1919,

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

My commission expires May 19, 1921.



## DEPOSITION OF MICHAEL BOSKOSFSKY.

Fred Sargent, duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY.

Q. What is your name and where do you live?—A. Michael Boskofsky; I live in Afognak.

Q. What part of Afognak do you live in?—A. Outside of Creole town—Derevnia.

Q. Did you live there on November 5, 1918?—A. Yes.

Q. Do you speak, read, or write the English language?—A. I can understand American language, but can't talk it; I can't write or read or write the American language; neither can I read or write the Russian language.

Q. Are you an Aleut?—A. No; I am a Creole.

Q. Was your father an Aleut?—A. No; Creole.

Q. Do the Creoles have a chief?—A. Yes.

Q. What is his name?—A. Evan Derenoff.

Q. Does the chief have authority over the affairs of the Creoles?—A. Yes.

Q. Is he generally obeyed?—A. Yes.

Q. Who is the President of the United States?—A. I don't know.

Q. Who is the governor of Alaska?—A. Wickersham.

Q. Who is the judge for this division of Alaska?—A. I don't know.

Q. Who is the present Delegate to Congress from Alaska?—A. I don't know.

Mr. SEXTON. I object to the questions asked this witness and ask that they be stricken from the record.

Q. Is the United States a monarchy, a republic, or kingdom?—A. Kingdom.

Q. Did you vote on the 5th day of November, 1918, at the election of a Delegate to Congress from Alaska?—A. I did.

Q. Who did you vote for?

Mr. SEXTON. I object, and I want the interpreter to tell the witness he does not have to tell for whom he voted.

A. I voted for Wickersham.

Q. Who helped you mark your ballot?—A. I put my own cross there, but told Emellian Petellin to write out the name.

Cross-examination by Mr. SEXTON.

Q. How old are you?—A. I am 45 years old.

Q. How many years have you been voting?—A. Since starting to vote I have voted right along, only when away from town.

Q. Are you a married man?—A. Yes.

Q. Any children?—A. From first wife two children, from second wife four children.

Q. Do any of them go to school?—A. Yes.

Q. You live in house like other people in Afognak?—A. Yes.

Q. Do you have a boat and fish?—A. I have dory, sein skiff; fish in summer.

Q. Do you have a garden?—A. Yes.

Q. You live just like white man or anyone else lives in this country?—A. Yes.

Mr. ALMY. I object to questions as being so indefinite that the witness can not intelligently answer.

Q. Do you pay any taxes?—A. I paid one tax of \$4.20, but have paid none this year because tax collector did not come around.

Redirect examination by Mr. ALMY:

Q. Isn't it a fact your father was an Aleut?—A. No.

Q. Isn't it a fact you were adopted by Creole family?—A. I don't know; it was just now that I found out I was adopted by Creole family.

Q. Do you remember who your father and mother were?—A. I don't know my father or mother, but I know my adopted parents that put me on my feet.

Q. Where were you born?—A. Afognak.

Q. You are not sure that your parents were Aleuts or not?—A. No; but I am sure people that adopted me were Creoles.

Q. Do you obey the rules and regulations of the chief of Creole village?—A. Yes.

Q. Do you recognize the chief of the Aleut village?—A. Anything chief tells me to do, I obey.

Recross-examination by Mr. SEXTON:

Q. You try to be a good citizen, don't you?—A. Yes.

Q. We have a United States marshal, Karl Armstrong?—A. Yes.

Q. You know we have a United States commissioner, who is a local judge?—A. Yes.

Q. You would listen to them rather than to your Creole chief, wouldn't you?—A. Yes.

Q. You listen to Creole chief in regard to matters in home community?—A. Yes. For nobody here to obey only chief.

Q. If chief told you to do something and marshal told you something else, who would you obey?—A. The judge.

MICHAEL (his x mark) BOSHKOFKY.

Witnesses to mark:

GEO. SEXTON.

CARL ALMY.

Subscribed and sworn to before me this 23d day of September, 1919.

[SEAL.]

FRANK J. HAYES,  
*Notary Public for Alaska.*

My commission expires May 19, 1921.

DEPOSITION OF ALEXANDER LUKIN.

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. What is your name, and where do you live?—A. Alexander Lukin; I live in the Aleut town of Afognak.

Q. Are you an Aleut?—A. No; I am a Creole.

Q. Can you speak, read, or write the English language?—A. No.

Q. Can you read or write the Russian language?—A. No.

Q. Do you speak the Aleut language?—A. I speak two languages, the Russian and Aleut.

Q. Did you vote at the election held at Afognak on November 5, 1918, at which a delegate to Congress from Alaska was voted for?—A. Yes.

Q. Who helped you mark your ballot?—A. Emellian Petellin.

Q. For whom did you vote for delegate to Congress?

Mr. SEXTON. Mr. Interpreter, you will inform the witness that he does not have to answer that question unless he wants to.

A. Wickersham.

Q. Who told you to vote for Wickersham?—A. Nobody told us, as we voted for him before.

Q. What form of government do we have in the United States of America?—A. I don't know; nobody informed me.

Q. Who is the President of the United States of America?—A. I don't know.

Q. Who is the governor of Alaska?—A. I don't know.

Q. Do you know who the United States judge for the third division of Alaska is?—A. No.

Q. Who else besides a Delegate to Congress did you vote for at the election on November 5, 1918? What other officer did you vote for?

Mr. SEXTON. I object on the ground that there is no other candidate election being contested at this hearing.

A. I only voted for the Delegate; I only cast one vote.

Q. Who is the chief of your people?—A. Evan Derinoff.

Q. Does he have general charge of the affairs of your people?—A. He used to some years ago, but now as he is old he ain't as good as formerly.

Cross-examination by Mr. SEXTON:

Q. On election day you had to ask somebody that you can talk to about the candidates on the ticket?—A. No; I didn't ask nobody.

Q. You had somebody mark your ticket for you?—A. Emellian Petellin marked it for me.

Q. Who told you to have Emellian Petellin mark your ticket?—A. There were three judges here, and because I could not write I had one of them mark it for me.

Q. Was Petellin one of the three men on election board?—A. Yes.

Q. Whenever the Alleuts and Creoles in Afognak go to the polls to vote on election day there is always some one at the place of election designated or pointed out for them to have their ballots marked by?—A. Yes.

Q. Did you tell Mr. Petellin who you wanted to vote for?—A. Yes.

ALEXANDER (his x mark) LUKIN.

Witnesses to mark: -

GEO. SEXTON,  
CARL ALMY.

Subscribed and sworn to before me this 24th day of September, 1919.

[SEAL.]

FRANK J. HAYES.

DEPOSITION OF PAUL NEKASOFF.

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. What is your name and where do you live?—A. Paul Nekasoff. I live in main part of Afognak.

Q. Did you live in Afognak on November 5, 1918?—A. —.

Q. Do you speak, read, or write the English language?—A. I don't.

Q. Can you speak the Aleut language?—A. Yes.

Q. Are you an Aleut?—A. No; I am a Creole.

Q. Was your father an Aleut?—A. Creole.

Q. Did you vote at Afognak on the 5th day of November, 1918, at the election held to elect a Delegate to Congress from Alaska and other officers?—A. Yes.

Q. Who did you vote for?

Mr. SEXTON. The witness will be informed that he does not have to answer that question unless he wants to.

A. I voted for Wickersham.

Q. Who marked your ballot for you?—A. Martin Larsen.

Q. Who told you to vote for Wickersham?—A. Nobody told me; there were three different ballots on the table, and I voted for Wickersham.

Q. Who told you to go to the election and vote?—A. Emellian Petellin.

Q. When Petellin told you to go and vote didn't he tell you to vote for Wickersham?

Mr. SEXTON. I object to question; witness already said he voted for Wickersham, and nobody told him to vote for Wickersham. I sincerely object, as witness has already voluntarily stated he voted for Wickersham.

A. No.

Q. What other officers were voted for at that election?—A. There were three ballots there, but didn't know any other names.

Q. Did you vote for anyone for attorney general of Alaska?

Mr. SEXTON. I object; question has no right being put to this witness.

A. No; I only voted for one.

Q. Do you know what an attorney general is?—A. No.

Q. Who is the President of the United States of America?—A. I don't know.

Q. Who is the Governor of Alaska?—A. I don't know.

Q. Why do they hold elections?—A. I don't know.

Q. What form of Government do we have in the United States of America?—A. I don't know.

Q. What office was Wickersham running for in the election held November 5, 1918, at Afognak?—A. Delegate from Alaska. I thought if he was elected he would help out the natives of Alaska.

Cross-examination by Mr. SEXTON:

Q. Do you have a Creole chief in Afognak?—A. No chief in Afognak now; he is a kind of a foreman.

Q. You do not live as a Creole tribe under a chief?—A. He ain't a chief really; he is a kind of a foreman.

Q. If the Creoles in Afognak should want a new chief, how would they get the new chief?—A. I don't know.

Q. If you were going to choose a new chief, wouldn't you have a meeting of Creoles and elect a new chief?—A. Yes.

Q. You understand, then, that the holding of an election and voting for a Delegate or governor or any other officer by the people the same as this Delegate election is done with the same idea as your electing a new chief?—A. Yes.

Q. Do you belong to the Greek church?—A. Yes.

Q. You have a priest here in charge of the church?—A. Yes.

Q. You obey him in all church matters?—A. Yes.

Q. Who is your United States marshal here?—A. Mr. Armstrong.

Q. You obey Mr. Armstrong?—A. Yes.

Q. If the priest or your Creole chief should tell you to do something and the marshal should tell you not to, who would you obey?—A. Both of them, Mr. Armstrong and the priest. I would obey Mr. Armstrong before I would the priest.

Q. You have a family?—A. Yes; wife, one daughter, and adopted boy.

Q. They have an education?—A. My adopted goes to school, but daughter never went to school. She has eight children and they go to school.

Q. You live in a house?—A. Yes.

Q. You have cows and chickens?—A. Yes.

Q. Do you dress and live like any white man?—A. Yes.

Redirect examination:

Q. Who is the Creole chief?—A. Paul Derinoff.

Q. What is the name of the priest here?—A. Father Gerasia.

Q. Does the priest speak English?—A. I don't know.

Q. Is the Creole chief an Aleut?—A. I don't know whether he is a Creole or Aleut.

PAUL (his x mark) NEMASOFF.

Witnesses to mark:

GEO. SEXTON.

CARL ALMY.

Subscribed and sworn to before me this 24th day of September, 1919.

[SEAL.]

FRANK J. HAYES.

Notary Public for Alaska.

My commission expires May 19, 1921.

#### DEPOSITION OF SERGAY SHERATINE.

Witness examined without interpreter, and being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testifies as follows:

Direct examination by Mr. ALMY:

Q. State your name and where you live.—A. Sergay Sheratine; I live in Afognak.

Q. Did you vote at the election on November 5, 1918, to elect a Delegate to Congress?—A. Yes.

Q. How long prior to November 5, 1918, had you lived at Afognak?—A. I lived here all the time.

Q. How old are you?—A. 24.

Q. Do you know anything about the fishing reservation in the waters adjacent to Afognak?—A. Yes.

Q. Is it a reservation for Alaska natives?—A. Yes.

Cross-examination by Mr. SEXTON:

Q. How many times have you voted?—A. Three times, since I was 21.

Q. Do you understand in this fish reservation here protecting the Aleuts and Creoles in Alaska that it does not affect you as citizens or voters in Alaska?

Mr. ALMY. I object, as question is leading.

A. No.

Q. Are you married?—A. Yes.

Q. How long have you been married?—A. Since October 24, 1915.

Q. Does your wife read and write English?—A. Yes.

Q. Did your wife vote?—A. No.

SERGAY SHERATINE.

Subscribed and sworn to before me this 24th day of September, 1919.

[SEAL.]

FRANK J. HAYS,

Notary Public for Alaska.

My commission expires May 19, 1921.

## DEPOSITION OF TIMOFEY NAYA.

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. What is your name and where do you live?—A. Timofey Naya; I live in the Aleut village of Afognak.

Q. Can you read or write the English language?—A. No.

Q. Can you read or write the Russian language?—A. Yes; I can write a little Russian.

Q. Are you an Aleut?—A. Yes.

Q. Did you vote at the election held in Afognak on November 5, 1918, at which a Delegate to Congress from Alaska was voted for?—A. Yes.

Q. Who did you vote for?

Mr. SEXTON. Mr. Interpreter, you will inform the witness that he does not have to answer that question unless he wishes.

A. Wickersham.

Q. Who marked your ballot for you?—A. I marked it myself.

Q. Who told you where to mark your ballot?

Mr. SEXTON. I object to that question being put to the witness, as he said marked it himself.

Mr. ALMY. Contestee desires to state that the witness has sworn that he could neither read nor write the English language.

A. Nobody told me; I marked it myself.

Q. How did you know who you are voting for?—A. I understand the letters, but I can't write or read.

Q. Did anyone tell you to vote for Wickersham?—A. No.

Q. Who is the President of the United States of America?—A. Wilson.

Q. What form of government do we have in the United States of America?—A. I don't know.

Q. Who is the governor of Alaska?—A. I don't know.

Q. Do the Aleuts have a chief?—A. Yes.

Q. Does he have general charge of Aleut Tribe here?—A. Our chief now don't seem to take much interest; what he says, however, we mind.

TIMOFEY NAYA.

Subscribed and sworn to before me this 24th day of September, 1919.

[SEAL.]

FRANK J. HAYS.

Notary Public for Alaska.

My commission expires May 19, 1921.

## DEPOSITION OF SIMEON BERESTOFF.

Fred Sargent duly and regularly sworn as interpreter.

Direct examination by Mr. ALMY:

Q. What is your name and where do you live?—A. Simeon Berestoff; I live in Creole town of Afognak.

Q. Can you speak, read, or write the English language?—A. No.

Q. Can you read or write Russian?—A. No.

Q. Did you vote at an election held on November, 1918, at Afognak, at which a Delegate to Congress was voted for?—A. Yes.

Q. Who did you vote for for Delegate to Congress?

Mr. SEXTON. The interpreter will tell the witness that he does not have to tell who he voted for unless he wishes to.

A. I voted for Wickersham.

Q. Are you an Aleut?—A. No; I am a Creole.

Q. Who is President of the United States of America?—A. Wilson.

Q. Who is the governor of Alaska?—A. I don't know.

Q. What form of government do we have in the United States of America?—A. Republican.

Q. Who marked your ballot for you at the Delegate election?—A. Alred Nelson was one of the judges; he showed me the ballots and I asked Mr. Petellin to mark ballot for me.

Q. Who is the Creole chief?—A. Derinoff.

Q. Does he tell you people what to do?—A. He is a kind of an overseer; he ain't a regular chief. Anything in the way of repairing the road or church he looks after.



Cross-examination by Mr. SEXTON:

Q. Did anyone tell you who to vote for at this election referred to?—A. Yes; they always hang up a notice of election, and besides that they always have a picture of the Delegate, and on election day we go and vote.

Q. On election day did anyone tell you to vote for Wickersham?—A. No.

SIMEON (his X mark) BERESTOFF.

Witnesses to mark:

CARL ALMY.

GEO. SEXTON.

Subscribed and sworn to before me this 24th day of September, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

My commission expires May 19, 1921.

#### DEPOSITION OF JOHN TAUSHWAK.

JOHN TAUSHWAK, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. ALMY:

Q. What is your name, and where do you live?—A. John Taushwak. I live in the Aleut village of Afognak.

Q. Are you the Aleut chief?—A. I am.

Q. Do you know Tichon Sheratine?—A. I do.

Q. Where is he now?—A. Uyak Bay, about 50 miles from here.

Q. Do you know John Sheratine?—A. Yes.

Q. Where is he?—A. He was here last night.

Q. Do you know Evan Alhoon?—A. Yes.

Q. Where is he?—A. He is cutting logs 20 miles from here.

Q. Do you know Nicolai Agick?—A. Yes.

Q. Where is he?—A. He went to Danger Bay, 25 miles from here, yesterday.

Q. Do you know Nastacia Kilegman?—A. Yes.

Q. Where is he?—A. At Uganik, 30 miles from here.

Q. Do you know Peter Malutin?—A. Yes.

Q. Where is he?—A. Here in Afognak.

Q. Do you know Nicolai Shangin?—A. Yes.

Q. Where is he?—A. At cannery at Uyak Bay.

Q. Do you know Afoney Malutin?—A. Yes.

Q. Where is he?—A. At Uyak Bay.

Q. Do you know Wasele Apolon?—A. Yes.

Q. Where is he?—A. At Ouzinki.

Q. Do you know Wasele Eshwank?—A. Yes.

Q. Where is he?—A. At Uyak Bay.

Q. Do you know Xenophant Gregorioff?—A. Yes.

Q. Where is he?—A. I think he is not in town.

Q. Did you vote at the election held at Afognak on November 5, 1918, at which election a Delegate to Congress from Alaska was voted for?—A. No; I was down at Latouche at that time and didn't know there was an election.

Cross-examination by Mr. SEXTON:

Q. Do you, as chief, exercise any control over these people as to whom they should vote for?—A. No.

JOHN TAUSHWAK,

Subscribed and sworn to before me this 24th day of September, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

My commission expires May 19, 1921.

#### CERTIFICATE OF NOTARY.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

I, Frank J. Hayes, a notary public in and for the Territory of Alaska, duly commissioned, qualified and sworn, do hereby certify that Fred Sargent was duly sworn as an interpreter to correctly interpret the English language into the Aleut language and the Aleut language into the English language in taking

the depositions of the hereinafter named witnesses and acted as such interpreter in the taking of said depositions.

And I further certify that the witnesses named in the foregoing depositions, to wit, Martin Larsen, Evan Derinoff, Matfrey Agick (Metfay Agick), Alexandria Nekrasoff, Michael Boskofsky, Alexander Lukin, Paul Nekasoff, Sergay Sheratine, Timofey Naya, Simeon Berestoff, and John Taushwak, were by me each duly sworn to tell the truth, the whole truth, and nothing but the truth before giving their said depositions; that thereupon the depositions of the said Martin Larsen, Evan Derinoff, Matfrey Agick (Metfay Agick), Alexandria Nekrasoff, and Machael Boskofsky were taken at the schoolhouse at Afognak, Alaska, between the hours of 8 o'clock and 11 o'clock in the afternoon of the 23d day of September, 1919, and the depositions of Alexander Lukin, Paul Nekasoff, Sergay Sheratine, Timofey Naya, Simeon Berestoff, and John Taushwak were taken at which is known as Paul Chichenoff's hall at Afognak, Alaska, between the hours of 10 o'clock and 11.30 o'clock in the morning of September 24, 1919. That said depositions were taken by me on the typewriter and said depositions were then carefully read by me to each of said witnesses and the depositions of each witness corrected by the respective witness and subscribed and sworn to by each respective witness in my presence.

That there were present at the time and place of taking said depositions, Carl Almy, attorney for Contestee George B. Grigsby, who conducted the direct examination for and on behalf of said contestee and George Sexton, attorney for Contestant James Wickersham, contestant, who conducted the cross-examination of said witnesses for and on behalf of said contestant and Fred Sargent, the interpreter.

That the foregoing depositions contain a full, true, and correct transcript of the testimony given by each of said witnesses at the times and places aforesaid; also contains a full, true, and correct transcript of all objections, interposed to said testimony at the time and place of taking said depositions by the attorney for the respective parties; also contains a full, true, and correct transcript of all statements made by the attorneys of the respective parties relative to said testimony; also contains Exhibit A, introduced in evidence by Mr. Almy, the attorney for George B. Grigsby, contestee, same being a certified copy of the election register of the 1918 Delegate election at Afognak, Alaska.

In witness whereof I have hereunto set my hand and affixed my official seal, at Valdez, Alaska, this 10th day of October, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

My commission expires May 19, 1921.

#### EXHIBIT A.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the district court for the Territory of Alaska, third division, do hereby certify that the attached is a full, true, and correct copy of the original list of voters in Afognak precinct, Kodiak recording district, for November 5, 1918, election, as the same appears on file and of record in my office.

In testimony whereof, I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 13th day of September, 1919.

[SEAL.]

ARTHUR LANG, Clerk.

#### AFOGNAK.

Tichon Sheratine.  
Paul Chichenoff.  
John Sheratine.  
Paul Nekasoff.  
Peter Malutin.  
Nicholas Shangin.  
Elia Knagin.  
Simeon Berestoff.  
Anton Larsen.  
Ezore Kelingau.  
Wasele Nekrasoff.  
Timofrey Naya.  
Xenophant Gregoroff.

Michael Susman.  
Evan Derenoff.  
Alex Seminoff.  
R. F. Spicer.  
Evan Alhoon.  
Alexander Lukin.  
J. J. Falstad.  
W. E. Bauman.  
O. C. Brown.  
Alexis Chichenoff.  
Mike Boskofsky.  
Alex Knagin, sr.  
Alex Anderson.

Alex Fredolin.  
 Peter Chichenoff.  
 Matfrey Agick.  
 Nicolai Agick.  
 Chas. B. Gunderson.  
 Afoney Malutin.  
 Efim Alplak.  
 John P. Johanson.  
 Chas. Pajoman.  
 Arthur Marzan.  
 Thos. M. Rogers.  
 Sergay Sheratine.  
 Gust Holmberg.

Norma Petellin.  
 Mary Petellin.  
 Louis Berg.  
 Mrs. J. S. Clark.  
 Virginia Clark.  
 Nicolai Boskofsky.  
 Mattie Pajoman.  
 John Naumoff.  
 Nicolai Sheratine.  
 E. Petellin.  
 Alfred Nelson.  
 Martin Larsen.  
 Alexander Chichenoff.

Conley, 3; Sulzer, 12; Wickersham, 37.

**UNITED STATES OF AMERICA.**

*To Seward Kunz, David Waggoner, Charles W. Hawkesworth, F. P. Mercer, Charlie Bobb, George Demmert, Ed Marshall, Steve Ragan, John Doe, Richard Roe, Peter Coe and Mary Doe, and Billie Brady, greeting:*

You are hereby commanded to be and appear before the undersigned, D. B. Chace, a notary public, at the offices of Hellenenthal & Hellenenthal, in Juneau, Alaska, on Saturday, the 27th day of September, 1919, at the hour of 4 o'clock p. m. of said day, and then and there testify under oath as a witness for contestee, George B. Grigsby, in the above-entitled proceeding. Hereof fail not.

Witness my hand and official seal at Juneau, Alaska, this 26th day of September, 1919.

[SEAL.]

D. B. CHACE, Notary Public.

My commission expires May 12, 1921.

**UNITED STATES OF AMERICA.**

*To Ole Tolafson, greeting:*

You are hereby commanded to be and appear before the undersigned, D. B. Chace, a notary public, at the office of Hellenenthal & Hellenenthal, in Juneau, Alaska, on Saturday, the 27th day of September, 1919, at the hour of 4 o'clock p. m. of that day and then and there testify under oath as witness for contestee, George B. Grigsby, in the above-entitled proceeding. Hereof fail not.

Witness my hand and official seal at Juneau, Alaska, this 27th day of September, 1919.

[SEAL.]

D. B. CHACE, Notary Public.

My commission expires May 12, 1921.

*To the above-named contestant, James Wickersham, and his attorneys, John Rustgard and John B. Marshall:*

Take notice that before D. B. Chace, a notary public, at the office of Hellenenthal & Hellenenthal, in Juneau, Alaska, on Saturday, the 27th day of September, 1919, beginning at the hour of 4 o'clock p. m. of that day and thence continuing until completed, the contestee, George B. Grigsby, will take the depositions of J. W. Bell and Ole Thorenson, residents of Juneau, Alaska.

Dated at Juneau, Alaska, this 27th day of September, 1919.

GEORGE B. GRIGSBY,  
 Contestee.

Copy of the above notice received at Juneau, Alaska, this 27th day of September, 1919.

JOHN RUSTGARD.

*To the above-named contestant, James Wickersham, and his attorneys, John Rustgard and John B. Marshall:*

Take notice that before D. B. Chace, a notary public, at the offices of Hellenenthal & Hellenenthal, in Juneau, Alaska, on Saturday, the 27th day of September, 1919, beginning at the hour of 4 o'clock p. m. of that day, and thence continuing until completed, the contestee, George B. Grigsby, will take the depositions of the following witnesses residing at Juneau, Alaska, to wit: Seward Kunz, David Waggoner, Charles W. Hawkesworth, F. P. Mercer, Charlie Bobb, and Billie Brady.

And of the following-named witnesses residing at the places respectively set opposite their names:

George Demmert, Klawock, Alaska.  
Ed Marshall, Douglas, Alaska.  
Steve Ragan, Ketchikan, Alaska.

And of John Doe, Richard Roe, Peter Coe, and Mary Doe, whose true names and places of residence are unknown to contestee.

Dated at Juneau, Alaska, this 26th day of September, 1919.

GEORGE B. GRIGSBY, *Contestee*.

Service of copy of foregoing notice is admitted this 26th day of September, 1919.

JOHN RUSTGARD,  
*Attorney for Contestant*.

Be it remembered that pursuant to the notices hereto annexed, and on this 27th day of September, 1919, at the hour of 4 o'clock p. m. at the offices of Hellenthal & Hellenthal in Juneau, Alaska, before me, D. B. Chace, a notary public for the Territory of Alaska, personally appeared Steve Ragan, Seward Kunz, Olaf Thoresen, J. W. Bell, George Demmert, David Waggoner, and Charles W. Hawkesworth, witnesses produced for and on behalf of the contestee in the above-entitled matter now pending before the House of Representatives of the United States, Sixty-sixth Congress; also appeared George B. Grigsby, contestee, and J. A. Hellenthal and John R. Winn, attorneys for said contestee, and James Wickersham, contestant, and John Rustgard and John B. Marshall, attorneys for said contestant, and the following proceedings were had and testimony taken:

Whereupon John Rustgard objected to the taking of the testimony of any of the witnesses on the ground that sufficient time had not been given for the taking of said testimony.

Thereupon the following stipulation was entered into between the respective parties:

It is hereby stipulated by and between the parties hereto that all objections with reference to the time of serving notice has been waived with reference to the hereinafter-named witnesses, whose testimony may be taken at the offices of Hellenthal & Hellenthal without the service of further notice on Tuesday, September 30, 1919, at the hour of 8 o'clock p. m., and continuance may be had from time to time thereafter until the testimony has all been taken: Steve Ragan, Seward Kunz, Olaf Thorensen, J. W. Bell, George Demmert, David Waggoner, and Charles W. Hawkesworth.

J. A. HELLENTHAL,  
*Of Counsel for Contestee*.

JOHN B. MARSHALL,  
*Of Counsel for Contestant*.

Whereupon the taking of the testimony of the above-named witnesses was continued until Tuesday, the 30th day of September, 1919, at the hour of 8 o'clock p. m. of said day.

Now, on this 30th day of September, 1919, at the hour of 8 o'clock p. m. all the above-named parties being present, the following proceedings were had and testimony taken:

DEPOSITION OF STEVE RAGAN.

STEVE RAGAN, a witness produced for and on behalf of the contestee, being duly sworn by the notary, testified as follows:

Direct examination by Mr. HELLENTHAL:

Q. What is your name?—A. Steve Ragan.

Q. Where do you reside?—A. Ketchikan, Alaska.

Q. What, if any, official position do you occupy?—A. Assistant United States attorney.

Q. How long have you occupied that position?—A. Since the 21st day of January, 1918.

Q. At what point in the district do you fill the position of assistant United States attorney?—A. My headquarters are at Ketchikan.

Q. How long have your headquarters been at Ketchikan?—A. Since my appointment.

Q. Since the date of your appointment in January of last year?—A. Yes, sir; that is the official headquarters for the assistant United States attorney for that end of the division. The residence is necessarily at Ketchikan.

Q. And has your residence at Ketchikan been continuous since the time of your appointment?—A. It has.

Q. Up to the present time?—A. Yes, sir.

Q. Did you vote at the last election—that is to say, at the election held in November, 1918?—A. I did.

Q. The delegate election?—A. I did.

Q. Where did you vote?—A. At Ketchikan, Alaska, my home.

Q. How long has that been your residence?—A. It has been my residence, I naturally lived at Ketchikan on the 29th day of January, 1918, and immediately established a residence and from that date until the present time my residence has never been any place else.

Q. How long had you resided in Alaska prior to the time that you were appointed?—A. I lived at Juneau, Alaska; I arrived at Juneau, Alaska, to make my home on the 26th day of September, 1911.

Q. Has your residence in Alaska been continuous ever since?—A. It has.

Q. In the first division all the time?—A. Always in the first division.

Q. Your wife has lived with you?—A. Yes, sir.

Q. You are a married man?—A. I am.

Q. And have been a married man for a number of years?—A. Yes, sir; prior to coming to Alaska.

Q. Your wife always resided with you at all times?—A. Yes, sir.

Q. What is your wife's name?—A. May Ragan.

Q. You voted at Ketchikan last year, during the last election?—A. Yes, sir; I did.

Q. And your wife also voted?—A. Yes, sir. There has been a part of the time since I have been at Ketchikan that my wife has been back and forth between Haines and Ketchikan, but her residence has been at Ketchikan since mine.

Mr. HELLENTHAL. That is all.

Cross-examination by Mr. RUSTGARD:

Q. Mr. Ragan, where is your wife and children now?—A. At this time they are at Haines.

Q. How long have they been there?—A. They have spent the summer on our property at Haines.

Q. You have filed on a homestead there near Haines?—A. I filed on a homestead at Haines in 1913, I believe it was; I am sure it was.

Q. You have a house there where you and your family lived until the time of your appointment?—A. Yes; we lived there until my appointment, that is from the time the house was built until my appointment.

Q. What time was the house built?—A. In the spring of 1914, I think it was.

Q. How far from the town of Haines is that?—A. It is 2 miles from the wharf at Haines.

Q. How large a tract of land is it?—A. About 50 acres.

Q. And since you filed on that land as a homestead you have been cultivating it as such?—A. I have.

Q. That is, you cultivated it this last summer as such?—A. Yes, sir; I hired it cultivated. Under the homestead laws where you have a homestead prior to an appointment to a position of this kind you don't have to have your residence upon the homestead, under that law, but you do have to keep up your homestead, and under that law I have kept up my cultivation and improvements.

Q. You also kept up your cultivation and improvements a year ago last summer?—A. Yes, sir.

Q. In fact ever since the time of your appointment you have kept up your claim to this homestead as a homestead?—A. Yes, sir; I have. The application has been made for the final survey which has been refused on the ground that an official survey of the whole country up there has been ordered. The time of residence, so far as my homestead is concerned, has expired quite a bit ago.

Q. What time limit do you refer to?—A. The time required to reside upon the homestead to get title.



Q. How long do you construe that to be?—A. Three years in Alaska, I believe. The three-year limit would have expired in 1917, in the spring.

Q. And you have applied for an official survey preparatory for application to patent?—A. Yes, sir; which has been delayed by the land office on account of an official survey of the whole country up there being ordered, some of the survey having been made this summer.

Q. What time did your wife and children return from the homestead last season?—A. Back to Ketchikan?

Q. Yes.—A. Some time in November, prior to the election, early in November, I could not tell just what time.

Q. Could you state approximately how soon before election they returned?—A. Why, very soon before election, I could not say exactly.

Q. Two or three days, something like that?—A. Yes; two or three days, something like that.

Q. How long had they been away from Ketchikan at the time?—A. I could not state, I am sure.

Q. Well, had your wife and children ever been in Ketchikan before they came there shortly before the last Delegate election last November?—A. Yes; they had been there, but they had not stayed any time.

Q. How long did they stay when they were there?—A. A very short time, I don't know just how long.

Q. Could you state approximately how long?—A. I would not attempt to say how long because I don't know.

Q. It didn't seem very long to you?—A. They were not there long.

Q. Were they there as long as a week?—A. Something like that I should judge. The house was rented, the furniture moved there, and their residence was at Ketchikan. The house that they went back to when they went to Ketchikan in November had been rented since the 7th of March and prior to that.

Q. Who had lived in that house since the 7th of March?—A. I had.

Q. All alone?—A. All alone.

Q. Well, now, you say your wife came down and visited you once before she came there immediately before election. Can you state now approximately what time it was she visited you at Ketchikan?—A. I don't remember.

Q. Well, tell us approximately?—A. She was there in the spring.

Q. Did she have the children with her?—A. Yes, sir.

Q. How many children have you?—A. I have two.

Q. And she stayed about a week?—A. Yes, sir.

Q. And then she went back on the homestead again?—A. Yes, sir.

Q. Now, when she came to Ketchikan a few days before last election, how long did she stay before she went back to the homestead?—A. She stayed until about the 1st of March. Wait a minute—about the 1st of May I mean.

Q. And then she went back again to the homestead?—A. Yes, sir.

Q. And she is there now?—A. She is.

Q. And she has been there ever since?—A. She has.

Q. Did you file any notice in the land office to the effect that you would remain away from the homestead?—A. I did not.

Q. Now, at the last election who did you vote for, I mean last fall, the election of November 5, 1918?—A. I voted for Charles A. Sulzer.

Q. And your wife voted also for Sulzer?—A. I have no way of knowing just how my wife voted. I assume that she did; I believe that.

Q. You would take her word for it?—A. I don't believe I ever heard her say whether she did vote for Sulzer, but I am reasonably sure that she did, if she voted for any Delegate at all. I don't know as she voted for Delegate, she may only have voted for the Territorial officials.

Mr. RUSTGARD. That is all.

The contestant, by and through his attorney, John B. Marshall, agrees that the foregoing deposition of Steve Ragan may not be signed by said Ragan, and the signing of same by said Steve Ragan is hereby waived.

JOHN B. MARSHALL.

#### DEPOSITION OF SEWARD KUNZ.

SEWARD KUNZ, a witness produced for and on behalf of the contestee, being duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. HELLENTHAL:

- Q. What is your name?—A. Seward Kunz.
- Q. Where do you live, Mr. Kunz?—A. At Juneau, Alaska.
- Q. How long have you lived here, Mr. Kunz?—A. I have lived here for a number of years.
- Q. Were you born in Alaska?—A. I was born in Sitka, Alaska.
- Q. And your residence has been in Alaska ever since?—A. Yes, sir.
- Q. How old are you?—A. Forty-one years old.
- Q. What race do you belong to?—A. I belong to the Thlinget race.
- Q. The Thlinget Tribe of the Alaska Indians?—A. Yes, sir; I am a descendant from the Thlinget Tribe.
- Q. And the Thlinget is one of the tribes of the Alaska native Indians?—A. Yes, sir.
- Q. Are you a full-blooded native, Mr. Kunz?—A. Yes, sir; full-blooded.
- Q. Where were you educated at?—In Alaska.
- Q. In what schools?—A. The public schools.
- Q. You graduated from the grammar school, did you?—A. No; I chiefly educated myself.
- Q. Do you read and write the English language?—A. Yes, sir.
- Q. Very well?—A. Yes, sir.
- Q. What is your occupation now?—A. A miner—a contractor at present.
- Q. Where are you contracting, in mines?—A. Yes, sir; the Ebner mine.
- Q. That mine is situated a short distance from the town of Juneau?—A. Yes, sir.
- Q. I wish you would explain what the business of a contractor in a mine is, what you mean by contractor?—A. A contractor is a man who works the ground, drills holes with machinery, a certain amount of holes, just according to the condition of the ground, and does blasting, and drives tunnels sometimes with drills in order to drift. A contractor gets so much for his work.
- Q. You do the work by contract?—A. Yes, sir.
- Q. You do not work by day labor?—A. No, sir.
- Q. That is what you mean?—A. Yes, sir.
- Q. Do you operate machines yourself?—A. Yes, sir.
- Q. You are a skilled miner, Mr. Kunz?—A. Yes, sir.
- Q. And among the highest paid—if you were laboring by the day you would be among the highest-paid laborers in the Territory?—A. I have been hired as a general mechanic in a mine.
- Q. What part of Juneau do you live in?—A. I live on Willoughby Avenue in front of the Indian Town.
- Q. In front of Auk Village?—A. Yes, sir.
- Q. In Auk Village, is it?—A. Yes, sir; on Willoughby Avenue.
- Q. This part of Willoughby Avenue where you are living is frequently referred to as Auk Village?—A. Yes, sir.
- Q. There are a great number of native Alaskans that reside in that locality?—A. Yes, sir.
- Q. How long have you resided in Auk Village?—A. This last time I have resided since 1913 in Auk Village.
- Q. Have you ever lived there before?—A. Not to amount to anything. I used to come in and visit, and out I would go again.
- Q. How long have you been acquainted with Auk Village?—A. Ever since I was a boy.
- Q. Ever since you were a boy?—A. Yes, sir.
- Q. Then you know the natives that reside in Auk Village?—A. Yes; I do.
- Q. Do you know their manner of life, their custom?—A. Yes, sir.
- Q. Do you know whether the natives residing in Auk Village have severed their tribal relations?
- Mr. RUSTGARD, That is objected to as calling for the conclusion of the witness.
- A. Yes, sir.
- Q. Have the natives residing in Auk Village severed their tribal relations?
- Mr. RUSTGARD, I object to that as calling for the conclusion of the witness and also calling for hearsay evidence.
- A. Yes, sir; not all of them; but a few of them that has.
- Q. Have the larger percentage of the natives severed their tribal relations, or have a few severed their tribal relations?—A. A few.
- Mr. RUSTGARD, I object to that question as calling for a conclusion.
- Q. You stated a few?—Yes, sir.

Q. Have the natives residing in Auk Village any chief at the present time?—  
A No, sir.

Q. Have they had a chief there for many years?—A. No, sir.

Q. When was the last time that they had a chief, or have they ever had a chief within your recollection?—A. The last chief, I believe, died in 1899, the summer of 1899.

Q. And they have never had a chief since?—A. No, sir.

Q. And they do not have a chief now?—A. No, sir.

Q. Do they have a tribal house?—A. No, I don't think so.

Q. And they haven't had a tribal house since the last chief died?—A. No; they haven't had any tribal house that I know of.

Q. How do the natives in Auk Village live? That is to say, what habits and customs do they have? Do their customs differ from the customs followed by the white people in Juneau?

Mr. RUSTGARD. I object to that as calling for a conclusion, and moreover I object to it because it isn't confined to any specific native and is leading and general.

Q. I will first ask him a general question. Do you you understand the question? The question is whether the natives residing in Auk Village have adopted the habits and customs of the civilized people of Juneau?

Mr. RUSTGARD. Objected to calling for an opinion pure and simple, and leading and isn't confined to any particular native and suggests an answer.

A. Yes; I know there are a few of them have adopted the habits of civilized life.

Q. And some have not?—A. And some have not.

Q. Now, do you know George Martin?—A. Yes; I do.

Q. And Albert Samuels?—A. Yes, sir.

Q. And Herbert Martin?—A. Yes, sir; I do.

Q. And Billy Martin?—A. Yes, sir; I know him.

Q. And Tilly Martin?—A. Yes, sir; I know her.

Q. Pete Smith?—A. Yes, sir; I know him.

Q. And Frank Peters?—A. Yes, sir; I know him.

Q. And Willie Peters?—A. Yes, sir; I know him.

Q. And Francis Joseph?—A. Yes, sir; I know him.

Q. And Charley Gray?—A. Yes, sir.

Q. And George Howard?—A. Yes, sir.

Q. And Jack Gamble?—A. Yes, sir; I know him.

Q. And Charley Bobb?—A. Yes, sir; I know him.

Q. And Jimmie Hanson?—A. Yes, sir; I know him.

Q. And George Gamble?—A. Yes, sir; I know him.

Q. And Charley Peters?—A. Yes, sir; I know him.

Q. James Miller?—A. Yes, sir; I know him.

Q. Jacob Harris?—A. Yes, sir; I know him.

Q. And John Harris?—A. I know two parties by that name, John Harris. I don't know which one it is you have there.

Q. They are both natives, are they?—A. No; one is a half-breed and the other is a full-blooded native.

Q. Do you know the John Harris that resides in Auk Village?—A. No, sir; I don't know him.

Q. Neither of them reside in Auk Village?—A. No, sir.

Q. Doesn't one of them reside near there?—A. One of them resides in town.

Q. In town?—A. Yes, sir.

Q. That is in Juneau, away from Auk Village?—A. In Juneau; yes, sir.

Q. Do you know Harry Anderson?—A. Yes, sir; I know him.

Q. And Charley Gamble?—A. Yes, sir; I know him.

Q. Where do all these parties reside, Mr. Kunz?—A. There are four of those names that resided here in Juneau, in town here, at the time of the election.

Q. These do not reside in Auk Village?—A. No; not in Auk Village.

Q. In other parts of Juneau?—A. Yes, sir.

Q. And the rest of them reside in Auk Village?—A. Yes, sir.

Q. Now, which four reside away from Auk Village?—A. George Howard, Johnie Gamble—

Q. That is Jack Gamble?—A. No, sir; there are two Gambles.

Mr. GRIGSBY. There are Jack and Charlie Gamble?

A. Charlie Gamble, I mean to say, and George Martin.

Q. Those four reside in Juneau?—A. Yes, sir; right here in town.

Q. They are all residents of Juneau?—A. They are all residents of Juneau; yes, sir.

Q. Now, Auk Village is here in Juneau, is it not; it is a part of Juneau?—A. Yes, sir; it is a part of Juneau.

Q. So that all the persons whose names I have read to you reside within the town of Juneau?—A. Yes, sir.

Q. And four of them reside outside of Auk Village?—A. Yes, sir.

Q. Now, are all those persons natives of Alaska—native Indians?—A. Yes, sir; they are natives of Alaska.

Q. Now, do you know whether all these natives have severed their tribal relations?—A. Not all of them.

Q. Which ones have not?—A. One by the name of Francis Joseph.

Q. He has not severed his tribal relations?—A. No; he has not severed his tribal relations.

Q. Have all the others severed their tribal relations?—A. Yes, sir.

Q. The others have all severed their tribal relations?—A. Also Harry Anderson.

Q. Harry Anderson has not severed his tribal relations?—A. No, sir.

Q. Those two, you say, are still observing their tribal customs?—A. Yes, sir.

Q. Those are the only two?—A. Those are the only two that I know.

Q. All the others have severed their tribal relations, to your knowledge?—A. Yes, sir.

Q. Now, with reference to all those who have severed their tribal relations, have they adopted the habits of civilized life or are they still observing the customs and habits of the Indians?

Mr. RUSTGARD. Object to that as leading and, moreover, is calling for a conclusion and suggestive.

Q. How is that?—A. They have adopted the habits of civilized life.

Q. All of them?—A. To a certain extent, they all have.

Q. To what extent?—A. They can not read or write.

Q. That is, they can not all read and write?—A. Not all of them; not these two that I know.

Q. But not these two; I am speaking now of the others?—A. The others, they are all entitled to vote, I believe; to my understanding—

Mr. RUSTGARD. I object to that question as calling for a conclusion and statement of a conclusion.

Q. I will have to get this straight. You say that the two who had not severed their tribal relations had only partly adopted the habits of civilized life?—A. Yes, sir.

Q. Is that right?—A. That is right.

Q. And as to all the others, what can you say of them?

Mr. RUSTGARD. Object to that as calling for a conclusion and leading and suggestive.

A. They have adopted the civilized life, living up to date.

Q. How are they living, in houses or tents?—A. In houses.

Q. What kind of houses?—A. Why, the houses that you see down in that village, they look like rubbish from the outside, but inside some of them are pretty well furnished.

Q. Do they differ in any respect from houses kept by white people, that is, poor white people, I mean, who haven't any larger incomes than the natives have?—A. Why, they live a little better to a certain extent, yes, sir; a little better than some white people.

Q. And they have furniture, you say, and cooking utensils?—A. Oh, yes, they have all that.

Q. They have all those things?—A. Yes, sir.

Q. How are the houses heated?—A. By stoves.

Q. And how many rooms are there in the houses?—A. All the way from two, three, and four.

Q. Are their sleeping rooms separate from the others?—A. The sleeping rooms are separate, yes, sir.

Q. Their sleeping rooms are separate from their other rooms?—A. Yes, sir, and also their cooking rooms.

Q. Their kitchens are separate from their other rooms?—A. Yes, sir.

Q. That is true of all the houses belonging to the parties whose names I have read to you with the exception of the two you said had not fully adopted

the habits of civilized life?—A. Well, I cannot say whether all of them live like that or not, whether all their houses are like that, but I know a good many of them here living just as I said, they have good houses, and have a sitting room and bedroom and kitchen.

Q. And they do not differ in any respect from houses of white men?—A. Yes, sir.

Q. You mean they do differ?—A. They do not differ.

Q. Are they like the houses of white men?—A. They are like the houses of the white men.

Q. They have in Auk Village, I believe, something in the way of a hotel, have they not?—A. They have a kind of a rooming house there.

Q. They have a sign on it, "Hotel" or "Rooming house"?—A. A sign from the street "Apartments to rent."

Q. How large a house is that, Mr. Kunz?—A. I could not give you the exact size, something like 24 feet by 30 feet I think it is.

Q. There are a number of sleeping rooms in it?—A. Yes, sir.

Q. What is that house used for?—A. That house is used for renting.

Q. For transients?—A. For comers, and where they have rooms they rent these rooms.

Q. Then, what have they in the way of a clubhouse, an amusement place?—A. They haven't any just now. They had one, but it is rented.

Q. Who is it rented to?—A. The missionaries have it; they have charge of it now, and it is now used for a school.

Q. That was built as a place of amusement?—A. Yes, sir.

Q. When was that built, Mr. Kunz?—A. That has been some years ago; I could not tell you the number of years.

Q. Quite a number of years ago, anyway?—A. Yes, sir.

Q. And it is now used by the missionaries as a school, you say?—A. As a church and schoolhouse.

Q. How long has it been used as a school?—A. This is the second year, I believe.

Q. The second year?—A. Yes, sir.

Q. Haven't they something on Willoughby Avenue in the way of a hotel besides that?—A. No, sir; I don't believe I know of a hotel.

Q. Now, these natives concerning whom you have testified, with the exception of these two, can all read and write, can they not?—A. Yes, sir.

Q. They can all read and write English?—A. Yes, sir.

Q. And all speak good English?—A. Yes, sir.

Q. And go to church?—A. Yes, sir.

Q. And all of them are members of some church or other?—A. Well, they go to different churches.

Q. But they all go to some church or other?—A. Yes, sir.

Q. They all go to Christian churches, do they not?—A. I think they do; I think the churches up here are all Christian churches.

Q. Now, do you know the natives residing on Douglas Island, Mr. Kunz?—A. I know some of them; yes, sir.

Q. Do you know Daniel Joseph?—A. Yes, sir; I know Daniel Joseph.

Q. And John Willis?—A. Yes, sir; I do.

Q. And Gilbert Jackson?—A. Yes, sir.

Q. And John Harris?—A. Now, there are two John Harrises in this town and there is another one, that makes three, and I don't know which one this is.

Q. Do you know John Harris from Douglas?—A. Yes, sir; I know him.

Q. And William Brady?—A. Yes, sir.

Q. And Jimmie Fox?—A. Yes, sir; I know him.

Q. And Edward Marshall?—A. Yes, sir; I know him.

Q. And Henry Stephens?—A. Yes, sir.

Q. Now, are you familiar with the way in which each of these natives on Douglas Island, whose names have been read to you, live?—A. Yes, sir.

Q. Do you know whether these natives have severed their tribal relations?—A. Yes, sir; they have.

Q. What would you say as to that?—A. They have adopted the habits of and living a civilized life.

Mr. RUSTGARD. Object to that question as calling for a conclusion.

Q. These natives whose names have been read to you as living on Douglas Island have all severed their tribal relations?—A. Yes, sir.

Q. And are all living and have adopted the habits of civilized life?



Mr. RUSTGARD. Objected to as leading and calling for a conclusion.

A. Yes, sir; and they have voluntarily taken up their residence separate and apart from the Indians. Also they are in business. Some of them have stores, etc.

Q. Do these natives all read and write the English language?—A. To a certain extent, yes, sir.

Q. They all read and write more or less?—A. More or less; yes, sir.

Q. And they all speak the English language?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. Have they any chief on Douglas Island?—A. No, sir; no chief there.

Q. How long since they have had a chief there?—A. I don't think they ever had any chief there.

Q. Have they ever had a tribal house there?—A. That I can not recall, I could not say.

Q. They have no such thing there now?—A. I don't think they have anything there at all in that line.

Q. And what kind of houses do these natives on Douglas Island live in?—

A. They have ordinary houses, well furnished; as I said before these men have adopted the habits of civilized life and they are all living just like the white people do.

Q. Some houses are better than others?—A. Yes, sir.

Q. But they are all houses such as white people live in?—A. Yes, sir.

Q. Now, do you know, Mr. Kunz, how the natives whose names have been read to you and whom you have testified, reside in Auk Village, make a living?—A. Mostly by fishing; they are mostly all fishermen.

Q. Are they out fishing now, Mr. Kunz?—A. Yes, sir; they are out fishing, they haven't returned from their summer's work yet.

Q. Now, with reference to the natives that reside on Douglas Island and concerning whom you have testified, how are they living?—A. I know all of those men. I have worked with them in the mines, meet them in the mines; they work in the mines part of the time and when the fishing season is on they are out fishing.

Q. And the rest of the time they work in the mines, the same as you do?—A. Yes, sir.

Q. What work do they do in the mines?—A. Why, I know two of them are miners, and the others are just laborers.

Q. You mean two of them are skilled miners, and the others are laborers?—A. Yes, sir.

Q. Do any of the Indians living at Auk Village work in the mines, Mr. Kunz?—A. Yes; they do.

Q. And do any of those natives whose names have been read to you, residing in Auk Village, work in the mines during the times when they are not fishing?—A. Yes, sir.

Q. What mines are they working in?—A. They are working in the Alaska-Juno mine. I don't mean to say all those names that have been read, but there are some of them work in the mines.

Q. What work do they do in the mines? Any of them skilled miners?—A. They are laborers.

Q. Most of them laborers?—A. Yes, sir.

Q. And how long since these natives residing both at Auk Village and at Douglas Island have been working in the mines that way?—A. Well, I could not say just how long; but I have known them for a good number of years. I have met them there at different places in the mines.

Q. Since you have lived in this community they have worked in the mines?—A. Yes, sir; some of them I have known.

Q. Do you know the natives residing at Klawock?—A. No; I don't know them at all.

Q. You don't know them?—A. No, sir.

Q. Do you know the natives residing at Hydaburg?—A. No; I don't know any of them.

Mr. HELLENTAL. That is all.

Cross-examination by Mr. RUSTGARD:

Q. Seward, you have taken out your papers as an American citizen, haven't you?—A. I have.

Q. You got your papers or certificate from the judge that you were an American citizen as early as 1916?—A. Yes, sir.

Q. In fact, you were the first of the natives to avail yourself of the new law permitting that to be done?—A. Yes, sir.

Q. Since you took out your papers, how many of the natives in Auk Village have taken out their papers?—A. There are two of them.

Q. Who are the two?—A. Willard and Watson.

Q. Harry Willard?—A. Harry Willard; yes, sir.

Q. And what is Watson's first name?—A. James Watson.

Q. There are only three of you, then, of the natives in Auk village who have got the papers from the court that you are citizens?—A. Yes, sir.

Q. Are there any of the natives in Douglas who have got their citizen papers?—A. I can not tell you, Mr. Rustgard.

Mr. HELLENTHAL. We object to that question. The question assumes something that doesn't exist. These papers are not citizen papers, they are simply papers the judges issue under the statute passed by the legislature here that evidence the fact that the native who holds them has severed his tribal relations and has adopted the habits of civilized life. They do not confer citizenship, they are simply certificates issued by the court that he finds the facts stated in them to exist.

Mr. RUSTGARD. They are the papers I refer to and I think the witness understands that.

Mr. HELLENTHAL. You understand that, do you?

The WITNESS. Yes, sir.

Q. Do you know whether or not any other natives in Auk village have made application for these papers?—A. I haven't got the record, Mr. Rustgard.

Q. You mean to say you do not know?—A. I do not know. The clerk of the court I guess knows about that.

Q. For a considerable time, Mr. Kunz, you have acted as interpreter for the district attorney's office at Juneau?—A. Yes, sir; I have.

Q. And a year ago you did considerable work as such interpreter for the Government?—A. A year ago; no, sir; I don't think I did.

Q. Now, during the month of September, 1918, you were interpreter, were you not, for the district attorney?—A. In 1919?

Q. No; in 1918.—A. In 1918; no, I don't think I was.

Q. When were you interpreter?—A. I can not remember that.

Q. You remember the Frank Dick case a year ago?—A. That was in November, I believe; I could not say.

Q. November, 1918, is that what you mean?—A. In 1918, I believe it was.

Q. Now, before that case was tried you had been interpreting for the United States attorney a good deal, had not you, in court?—A. Before that; yes; but not that same year, but I have interpreted a good bit.

Q. When did you do most of the interpreting?—A. I think it was in 1916 and 1917.

Q. And from time to time after that?—A. No; not to amount to anything. I would call for a day or two; I could not afford to stay there.

Q. When the district attorney wanted an interpreter they generally sent for you?—A. Yes; and sometimes I refused them.

Q. The district attorney would send for you as interpreter?—A. When I had nothing to do I would go up.

Q. And put in your time interpreting?—A. Yes, sir.

Q. Do you remember the names of those natives Mr. Hellenthal read off to you?—A. Yes, sir.

Q. Have you ever interpreted for them in court at any time?—A. I don't believe I have. I can not recall just who I interpreted for, there were so many cases and I can not keep track of who I did interpret for.

Q. There are very few of those natives whose names he read to you who could speak for themselves in court? They would always call an interpreter wouldn't they?—A. If he couldn't speak he would.

Q. Very few of them could speak for themselves in court?—A. Yes; very few of them.

Q. If they were witnesses in a case they would want an interpreter?—A. Yes; to make sure of the language; yes, sir.

Q. When at work whether fishing or mining they talk enough English to get along with the work?—A. Yes, sir; they understand enough to get along.

Q. And if they go into the store to buy a plug of tobacco they can speak enough English to buy that; they don't need an interpreter for that?—A. No; they don't need an interpreter for that.

Q. But if they go on the witness stand they want an interpreter, don't they?—A. Yes, sir; they do.

Q. All of them?—A. Yes. No; not all of them, but some of them.

Q. Practically all of them, isn't it?—A. I wouldn't say all of them. Most of these young men that you have a list here of the names, they are better men than I am; that is, far better educated than I am.

Q. Well, what about George Martin?—A. George Martin, he is a very intelligent man.

Q. Where did he live last fall?—A. Last fall he lived in Juneau.

Q. Whereabouts in Juneau?—A. In town.

Q. Where, in town?—A. I could not say where he lived, where he roomed. He told me he lived here in town.

Q. Where is he now?—A. He is down at Karheen.

Q. Did he ever live in Auk Village?—A. Yes; he lived there.

Q. He used to live there?—A. Yes; he used to live there once in a while.

Q. Is his home there now?—A. No; I don't think so. I don't think he is there now. I can not keep track of all these boys.

Q. How old a fellow is he?—A. Oh, he is about 25 or perhaps more.

Q. Do you know where he was born?—A. No; I don't know where he was born.

Q. How long have you known him?—A. I have known him ever since he was a boy.

Q. You were together in Auk village?—A. In Auk village?

Q. Yes, did he used to live there?—A. He used to live there; yes, sir.

Q. When you knew him?—A. Yes, and other places.

Q. Has he a father and mother living?—A. No, his father is dead; I think he is dead.

Q. You say George Howard is in Juneau; whereabouts does he live?—A. George Howard lives in the city limits of Juneau.

Q. Well, whereabouts?—A. On Sixth or Seventh Street.

Q. On Sixth or Seventh Street?—A. I think it is Sixth Street, if I am not mistaken, or Seventh Street.

Q. Whereabouts on Sixth or Seventh Street?—A. Do you know the place just past Giovanetti's store on Dixon Avenue; just past his store there are steps going down the hill to the Indian town; there is a sign up there. I don't remember now whether it is Sixth or Seventh Street.

Q. That is where George lives?—A. Yes, sir.

Q. And where he lived last election?—A. Yes, sir.

Q. Isn't that part of Auk Village?—A. That is the town, that is Juneau City.

Q. That is right across the line, isn't it?—A. No, it is inside the line.

Q. How far is it from Auk Village?—A. I think it is 200 feet, more or less; I could not say for sure; I couldn't give the exact number.

Q. Right at the foot of the street going down from Giovanetti's store?—A. Yes, sir.

Q. Now there are only natives living near by there, isn't there?—A. No, there are white people living there.

Q. Who are they?—A. I could not say the names; I don't know everybody.

Q. Where did Charley Gamble live?—A. He lived with his brother last year.

Q. Where was that?—A. It is down at Auk Village.

Q. He lived in Auk Village last election?—A. Last election, yes, sir.

Q. And where did George Gamble live?—A. George Gamble lived with him—he has a home down there.

Q. In Auk Village?—A. Yes, sir.

Q. And they both lived there last election?—A. Yes, sir.

Q. And they live there now?—Yes; they live there now. No, not now; they are out; they haven't got back from their work yet.

Q. Well, neither of those I have mentioned have come back from their work yet?—A. No, they haven't come back.

Q. Is Charley Peters back from work?—A. No, sir.

Q. Or Jack Harris?—A. I haven't seen him.

Q. Or Jacob Harris?—A. I don't know; I don't know just where they are.

Q. What about Samuels; has he returned?—A. Albert Samuels, you mean?

Q. Yes.—A. He is in town; yes, sir.

Q. He is in town now?—A. Yes, sir.

Q. Does he live at Auk Village?—A. Yes, sir; he lives at Auk Village.

Q. And Billy Martin, is he in town?—A. He is not back from work.

Q. And Tillie Martin?—A. Tillie Martin isn't back.

Q. What about Peter Smith?—A. He is not back; he is out fishing yet.

Q. And Frank Peters?—A. You can not get him back; he is dead.

Q. When did Frank Peters die?—A. He died last fall.

Q. After election?—A. After election; yes, sir.

Q. He lived at Auk Village?—A. Yes, sir.

Q. Frank Peters is one of the names which was read to you by brother Hellenthal?—A. I don't know just where he lived; I could not say for sure.

Q. And Willie Peters, he lives in Auk Village?—A. Yes; he lived there once, but he is not in Auk Village, I believe, now.

Q. Now, Joseph lived down there, Frank Joseph; does he live at Auk Village?—A. I don't know him; I don't get the man.

Mr. GRIGSBY. Francis Joseph is the name.

A. Yes; I know him.

Q. Where does he live?—A. He lives in Auk Village. He is not there now.

Q. Where is he now?—A. He is out fishing.

Q. Now, what is the difference between Francis Joseph and the rest of them? He is just as good as the rest of them, isn't he?—A. He must be, but he doesn't understand what we are talking about now. He doesn't understand election on account of he doesn't talk enough English to understand.

Q. Can't he understand enough English to understand it?—A. Well, he understands that, but he can not read.

Q. Did you try to show him what election meant?—A. No; I did not.

Q. Now, what is the difference between Harry Anderson and the rest of them?—A. Harry Anderson, he is one of the boys that is just outside of the civilized life.

Q. Does he live in Auk Village?—A. He lives in Auk Village; yes, sir.

Q. How old is he?—A. I could not say his age.

Q. He doesn't talk much English either?—A. Well, he talks English but he doesn't understand it all.

Q. He doesn't understand politics?—A. He doesn't understand politics, is right.

Q. Did you try to give him any pointers on politics?—A. No; I didn't want to do it; he wouldn't understand it.

Q. Did you call on any of these boys and talk politics with them?—A. I did; yes, sir.

Q. Did you have sample ballots for them and showed them how to vote?—A. I didn't show them how to vote; no, sir.

Q. Didn't you have sample ballots for them, Democratic sample ballots?—A. I had sample ballots; yes, sir; I had two kinds.

Q. Now, is that the sample ballot that you were passing around to the boys. [Shows paper to witness.]—A. That is one of them, but there was one more.

Q. What was that?—A. There was another one.

Q. Where did you get your sample ballots from?—A. I got them from somebody, either Wenrick or Mr. Marshall there handed them to me down to the dispatch office.

Q. Did you have any of these affidavits that you got from John J. Reagan to give them?—A. Oh, that was after they were turned down, after two of them were turned down.

Q. Oh, then they were turned down by the election board?—A. Yes, sir.

Q. And then you went and got those affidavits?—A. I went and got them; yes, sir.

Q. Well, who gave them to you?—A. I got them from Mr. Reagan, I got half a dozen of them.

Q. From John J. Reagan?—From Mr. Reagan, the prosecuting attorney.

Q. You mean the assistant district attorney?—A. Yes, sir.

Q. Now, where did he give them to you?—A. I can not place just where he gave them to me.

Q. Did you go to his office and ask for something from him?—A. I can not recall yet.

Q. Well, how did you happen to get them?—A. After the boys were turned down they came and told me about how the election board turned them down, so there was the one chance I had to show the Alaska native is entitled to vote and I wanted to prove it that day so I took it up with Mr. Reagan. In fact, he looked up the law and found it as I stated to the election judges up there that every Indian born within the limits of the Territory of the United States who had voluntarily taken up their residence separate and apart from any tribe of Indians, they are citizens, they are declared citizens, and I read that to them by heart up there to the judges after they had been turned down, and then to prove this matter I goes up and sees Mr. Reagan and he looked up the law and found it himself.

Q. You remember now that you went to Reagan's office and got those affidavits?—A. That is right.

Q. What time of the day was that?—A. I could not give you the exact time, but it was sometime between 4 and 5 o'clock.

Q. In the afternoon?—A. In the afternoon; yes, sir.

Q. Had you spoken to Reagan about the right of the Indians to vote before that time?—A. No; I did not.

Q. You never saw Reagan about that?—A. I never spoke to him on that line until that day.

Q. Did you see any of the deputy marshals?—A. No; I did not.

Q. Do you know Frank Desmond?—A. I do; yes, sir.

Q. Did you have any discussion with Frank Desmond about it?—A. No, sir.

Q. Did you advise the officials to give those affidavits to Frank Desmond?—A. No, sir.

Q. Now, did Reagan have those affidavits ready for you when you came in?—A. No; he did not.

Q. He did not?—A. No, sir.

Q. Who made them out?—A. I could not say who did.

Q. But they were made out and turned over to you?—A. It wasn't already made out; it was after I called on him.

Q. Now, how many did he give you?—A. I got half a dozen.

Q. What did you do with them?—A. I gave them to the boys, the boys who were turned down. They were to take it to the voting polls, and if they were turned down again they were to show these to the judges; I told them if they were challenged again that they were to show these affidavits to the judges and they can have their vote sworn in; that is all the explanation I gave the boys.

Q. Did you take them up to the polls to vote; did you walk with the boys up to the polls when they voted?—A. No; I did not. Yes; I took up three boys.

Q. Three boys?—A. Yes, sir.

Q. And they went through all right that way?—A. They went through all right, and the others went through all right, too.

Q. You didn't have to go up with the others?—A. No; I didn't have to go up with the others, I just happened to be there.

Q. Now, was Mr. Smiser there at the time you went up to the district attorney's office?—A. I don't believe he was.

Q. Do you know James A. Smiser, the United States district attorney there?—A. Yes; I know him.

Q. Do you remember whether you saw him in the office at that time?—A. I can not recall him.

Q. When you came to Reagan's office did you wait there until he had made up these affidavits for you?—A. No; I did not wait in his office; I went out in the hall there.

Q. And did you wait in the hallway until he could get up the affidavits?—A. No; I went away and came back again. To find out the results I came back again; I came back after I went away and found him at his office; I wanted to find out his views what I had taken up with him to find what was to be done.

Q. First you discussed it with him and told him your trouble?—A. Told him the trouble; yes, sir.

Q. And then you went away?—A. Yes, sir.

Q. How long were you gone?—A. Not any more than a half an hour, I believe.

Q. What made you come back?—A. I came back to find out what to do, whether these Indian votes would be accepted or not—that I was very anxious to find out. As I said, I took it up with the people at the election board, this election board, I took that up with them.

Q. That was before you went to see Reagan?—A. That was before I saw Mr. Reagan; yes, sir, and they were turned down. I read to them as I have already stated, the rights of the Indians of Alaska.

Q. Now, first when you went to see Reagan, didn't Reagan tell you what you could do?—A. He didn't tell me.

Q. Did he tell you to go away?—A. He didn't tell me to go away.

Q. Did he tell you to come back again?—A. He didn't tell me when to come back.

Q. Didn't he tell you to come back up again?—A. He said he would let me know later, but I was anxious to find out what was to be done, so I went back and found out.



Q. So then he had those affidavits ready for you?—A. Yes, sir.

Q. And at the bottom underneath the affidavits was a statement signed by Mr. Smiser?—A. No; there were none of them signed.

Q. Well, wasn't there a statement there signed by Mr. Smiser?—A. There weren't any signed, not those that I got.

Q. None of them?—A. None of them.

Q. No name on it?—A. No name on it. There might be a place for the notary public to sign and a place for the party to sign who swears his vote in.

Q. Did you get any more of those affidavits than those half a dozen Reagan gave you?—A. That was all that I got.

Q. That was the first time in the city of Juneau, as far as you know, that any of these Indians voted?—A. Oh, they have been voting; yes, sir.

Q. Do you know of any others that voted here before?—A. Yes, sir; they have.

Q. Where and who?—A. Who are they?

Q. Yes; who are they, mention the Indians who voted here before?—A. Why, Harry Willard has voted.

Q. He has his papers from the court.—A. Well, you said Indians.

Q. But outside of those who have their papers. Were there any Indians outside of those?—A. Outside of those? Yes, sir.

Q. Do you know of any Indian who ever voted in Juneau before last election who did not have his papers from the court that he was a citizen?—A. Yes, sir. I know two people here, boys who have been voting.

Q. Now, there is Harry Willard and James Watson and yourself; you three have been voting?—A. Yes, sir.

Q. After you got your papers from the court?—A. Yes, sir.

Q. You didn't vote before that?—A. Oh, I have voted before; yes, sir.

Q. What time?—A. I voted in the city elections.

Q. When?—A. Oh, that was a long time ago.

Q. How long is that since?—A. I can not give you the number of the years.

Q. Now, do you know another native here who didn't have his citizenship papers from the court who ever voted in the city elections in Juneau or Douglas?—A. Yes, sir; I do.

Q. Who is it? I want to get the name.—A. I can not say for sure just how he did vote or where he did vote, but I get it from the boys.

Q. Well, who is he?—A. One is Daniel Joseph, at Douglas; he has voted at the city election.

Q. When did he vote at the city election?—A. A year ago. And one by the name of Betts.

Q. Now, you say Daniel Joseph voted at the city election a year ago at Douglas?—A. Yes, sir.

Q. And the other one is who?—A. Betts.

Q. What is his first name?—A. I can not give you his first name; that is the only name I know.

Q. Where does he live?—A. In Killisnoo.

Q. Where did he vote?—A. I told you I can not say for sure just where he did vote, but they told me that they have been voting at Douglas. This is just what they told me. I am giving you just what they told me.

Q. When did they tell you that?—A. Now; that Betts told me three years ago. Now, Daniel Joseph told me after the city election at Douglas; he told me he voted.

Q. Daniel Joseph has not got his papers?—A. I could not say; I don't believe he has, but I don't know.

Q. Did Betts get his papers?—A. I could not say; I don't know whether they got their papers.

Q. Did Betts ever live in Juneau?—A. I don't believe so.

Q. Did Betts ever live in Douglas?—A. He has lived at Douglas.

Q. What time?—A. I told you I seen him there years ago over at Douglas. I have seen him over on this side. Have had several talks together, and, through talking, he told me just how he voted and where he voted.

Q. Do you know one Jimmie Fox?—A. Yes; I know him.

Q. He wanted to be elected chief last fall, didn't he try to be elected chief, didn't he?—A. I don't know anything about that.

Q. You don't know anything about that?—A. No, sir.

Q. You never heard of that?—A. No, sir. What I seen in the papers is all I know.

Q. You saw in the papers he tried to be chief?—A. I saw what the papers said, that is all I know.

Q. The day after the election the Juneau Empire said Jimmie For was elected chief, didn't it?—A. No; I don't believe so.

Q. What did he say?—A. He denied it in the papers.

Q. He denied he was elected?—A. He denied he was elected in the paper.

Q. He was beat?—A. No; he wasn't beat. The Empire said he denied he had anything to do with the chief, and so forth, but the substance of it was he stated in the Empire he was for being a citizen.

Q. He said he didn't want to mix into the Indian election because he aspired to be a citizen, was that the statement?—A. Something to that effect in the paper. All I know is what it said in the paper.

Q. Now, those natives you say live in about the same kind of houses that the white men live in?—A. Yes, sir.

Q. Are they houses plastered inside?—A. Yes; some of them.

Q. How many houses in Auk Village are plastered?—A. Well, there is one that I know.

Q. The one that you live in?—A. James Clark has got a plastered house.

Q. And who else?—A. Some of mine is plastered.

Q. How much of yours is plastered?—A. The front room is plastered.

Q. The one that you live in?—A. James Clark has got a plastered house. are plastered.

Q. How are they built inside? Are they boarded up as a rule?—A. Yes, sir.

Q. Are they double or single walls?—A. They are warm, some of them are three thicknesses with paper between them. They are better floors than what you have got here. (Referring to the floors in Mr. Hellenthal's office.)

Q. How many streets have you got?—A. There is only one street.

Q. Only one street there?—A. Yes, sir.

Q. And there are houses on either side of that street?—A. Yes, sir; on either side up and down the street.

Q. How wide, about, is that street?—A. I think it is about 7 or 8 feet, more or less, I can not say exactly.

Q. That street isn't so any wagon can drive on it?—A. No, sir.

Q. Just board walk?—A. Yes, sir.

Q. Is that over tide land?—A. Part of it.

Q. Is it on Government land, land belonging to the Government of the United States?—A. I don't know that, I am sure; you could not get that out of me; no, sir.

Q. Do you know whether or not there is a patent issued by the United States to the land?—A. No, sir; no one has ever applied for patent. The biggest strip I know in that village is only 18 feet wide.

Q. Now, I show you a picture here and ask you if it looks like a good picture of the street there in Auk Village to which you have referred? [Witness examines photograph.]—A. Yes, sir.

Q. It looks like home, sweet home?—A. Well, that is good enough.

Q. Can you point out your own house there?—A. No; you can not see it; you would have to take that picture away around here [indicating] about 100 feet before you could catch my house.

Q. That is the street you have referred to, is that the street that runs through Indian Town?—A. Yes, sir; that is the street I referred to.

Mr. RUSTGARD. I offer that picture in evidence, and ask that it be marked "Contestant's Exhibit A."

(Picture offered in evidence and marked "Contestant's Exhibit A" by notary and made a part of this deposition.)

Q. That picture was taken yesterday and there has been no change in the appearance of the village since last fall, has there?—A. No; I never noticed any. I have been away so much I wouldn't notice.

Q. Now, do you find Peter's house in that picture?—A. Well, there are half a dozen Peters; I don't know which one you refer to.

Q. Well, take Willie Peters.—A. You can not see his house.

Q. I show you another picture taken yesterday, wash day, and ask you to look at it and state whether or not that is a correct representation of the rest of Auk Village in Juneau?—A. No; this is not Juneau, this is Douglas, between the natatorium and Treadwell.

Q. The natives in Douglas whom you have referred to, they live in what is known as Indian Town in Douglas?—A. Yes, sir.

Q. And this picture I last show you, this picture is of the Indian Town in Douglas?—A. Yes, sir; that is part of the Indian Town; yes, sir. That picture with the family in front, that is the end of the Indian Town.

Q. That is the end of the Indian Town?—A. Yes, sir.

Q. That street that shows there, that is the only street in Indian Town in Douglas?—A. No; I believe there are two streets.

Mr. RUSTGARD. I offer this picture in evidence, which the witness has just referred to, and ask that it be marked "Exhibit B" of the Wickersham record, and I will state it was taken yesterday.

(Picture marked "Contestant's Exhibit B" by notary and made a part of this deposition.)

Q. Now, I show you another picture taken yesterday. Of course, you know Auk Village and I ask you if that correctly represents a portion of Auk Village in Juneau. Now, that was taken from the front of the Presbyterian Church in Auk Village. Does that look familiar?—A. Yes, sir; but that is not an Indian house, that is a white man's house I see there.

Q. Who is he?—A. He is some fellow who died. Some missionary people have charge of that house there.

Q. That two story house?—A. Yes, sir.

Q. What is the name of the party who has charge of it?—A. I could not say; maybe Mr. Crew.

Q. What is that house used for?—A. It is used for a living house, the old fellow used to live there.

Q. And this other one, that is just the Presbyterian Church?—A. The first one; yes, sir.

Mr. RUSTGARD. I offer that in evidence and ask that it be marked "Contestant's Exhibit C" and made a part of this deposition.

Q. Now, who built that place that is used for a schoolhouse now?—A. The schoolhouse?

Q. Yes.—A. It was built by the Presbyterian Board, I believe it was, the people who established that.

Q. And they put it up there for an amusement place for the Indians?—A. Yes, sir.

Q. And that is the amusement house that Brother Hellenthal referred to in his examination of you, isn't it?—A. Well, that is the only amusement house what is down there. It has been an amusement house but it isn't now.

Q. This one that is used for a school now?—A. Yes, sir; church and school.

Q. Who is conducting a school there?—A. Why, I think her name is—

Q. Is it a Government school?—A. A Government school; yes, sir.

Q. The Bureau of Education?—A. Yes, sir.

Q. Of the United States of America, that is running the school?—A. Yes, sir.

Q. And they are using that Presbyterian house for that purpose?—A. Yes, sir.

Q. Now, the children of the Indians in Auk Village go to that school?—A. Yes, sir.

Q. They don't go to the common or public school in Juneau?—A. Oh; there are a few of them going to the public school; yes, sir.

Q. Who are they?—A. One is Elsie Kunz.

Q. That is your daughter?—A. Yes, sir.

Q. Who else?—A. One is Ruth Willard.

Q. That is the daughter of Harry Willard?—A. Yes, sir.

Q. The man who you testified to had been declared by the court to be a citizen?—A. Yes, sir.

Q. Anybody else's children?—A. There is another one, Agnes Watson.

Q. She is the daughter of Frank Watson, who is also declared by the court to be a citizen. Has her father also been declared by the court to be a citizen?—A. Yes, sir.

Q. Then the children of the three of you who have your citizenship papers, so-called, your children go to the public school?—A. No; not only for that reason.

Q. I didn't ask you the cause. But are there any other children going to the public school?—A. Yes; Annie Johnson has been going but she is delayed this winter on account of illness.

Q. What school does she go to?—A. I don't know just where she is starting now, I could not say.

Q. She went to the public school at one time?—A. Yes, sir.

Q. How many go to the Indian school?—A. I can not tell you.

Q. Can you tell approximately?—A. I could not say any more than a half a dozen just at present—it only opened yesterday.

Q. Now, Seward, your house is fronting on Willoughby Avenue, is it? Is it fronting on this street in Auk Village that you have seen a picture of?—A. Yes, sir; that is between Indian Street and Willoughby Avenue.

Q. You voted for Sulzer at the last general election?—A. I did; yes, sir.

Q. And you were a Sulzer supporter at that election?—A. Yes, sir.

Q. And did you give any of these affidavits prepared by Reagan at his office to any of the natives the day before election?—A. No; I did not.

Q. You are quite sure of that?—A. No; I did not.

Q. Did you ever see any of those affidavits before you got them from Reagan between 4 and 5 o'clock in the afternoon of election day?—A. No, I did not see any one of them.

Mr. MARSHALL. I want to ask a question or two of Mr. Kunz.

By Mr. MARSHALL:

Q. Were you in Juneau along in March and February this year?—A. Yes; I was here.

Q. Did you hear anything at that time about the Pot Latch that was to be given out at Ground Hog Bay by Charley Moses, a native out there, an old native?—A. I heard about it; yes, sir.

Q. Did you hear whether the Governor of Alaska took any steps to stop the holding of that Pot Latch?—A. Yes, sir.

Q. Do you know what the natives were, who were trying to go there from Juneau?—A. Yes; I do.

Q. Do you know whether any of them, that is among them were any of the natives you have mentioned here who have adopted the habits of civilized life?—A. No, sir.

Q. None of these people you mentioned were among the people who tried to go to that pot latch?—A. No; there is none went down there excepting one that I referred to.

Q. Who was he?—A. Francis Joseph.

Q. Francis Joseph tried to go. But you don't know of anybody else?—

A. I don't know of anybody else who tried to go; no, sir.

By Mr. RUSTGARD:

Q. Can you state whether or not any of these natives, except those who had their citizenship papers from the court, voted at the last city election in Juneau?—A. I haven't got you yet.

Q. Did any of the natives from Auk Village vote at the last city election here in Juneau the first Tuesday in April?—A. Those who did not have their citizenship papers, you mean?

Q. Did any of those who did not have their citizenship papers vote at that city election?—A. The last city election, you mean?

Q. Yes.—A. I believe there was.

Q. Who were they?—A. I could not say.

Q. Do you know of anybody who did?—A. Yes, I do.

Q. Who?—A. Those I am referring to; those who had their papers voted.

Q. Do you know anybody who didn't have their citizenship papers who voted?—A. I didn't pay any attention.

Q. You would have known it if they had voted, wouldn't you?—A. I would have known it if I was there, yes, sir; but I wasn't there.

Q. You didn't see any Indian who voted, did you, but those who had their citizenship papers?—A. No, I wasn't around there to tell; I wasn't there then to know.

Q. You know as a matter of fact they didn't vote except those who had their citizenship papers, don't you?—A. I could not say, I am sure. I could not say.

Q. Now, you have referred to this sample ballot as one of the sample ballots you got to distribute among the natives?—A. I didn't distribute them amongst the natives I didn't know, just amongst those I knew, the boys right here in town. This is one of them, but there was another one, I said.

Mr. RUSTGARD. I offer this sample ballot in evidence and ask that it be marked "Exhibit D."

(Sample ballot marked "Contestant's Exhibit D" by the notary and made a part of this deposition.)

Mr. RUSTGARD. That is all.

Redirect examination by Mr. HELLENTHAL:

Q. What was the other sample ballot?—A. The other bunch I got from Mr. Marshall.

Q. Is that the same Mr. Marshall who is now representing Judge Wickersham?—A. Yes, sir.

Q. And what was that, a Democratic or Republican ballot?—A. Well, I don't know. It was marked——

Q. Was it a Sulzer or a Wickersham ballot?—A. It was a Wickersham ballot; I got a bunch from him.

Q. Then you had a Sulzer ballot and a Wickersham ballot also?—A. I had both; yes, sir.

Q. And showed them both to the Indians?—A. Yes, sir; it was all the same to me. I was just taking my time up. When I happened to run across the boys I would distribute them to the boys I knew; I would hand both of them to them. Either way they voted was all the same to me.

Q. Did you make any effort to get them to vote either one way or the other?—A. No, sir; I didn't remark anything at all; I just asked them if they understood it, and they either took one or the other.

Q. Your purpose was to see the Indians who were entitled to vote did vote?—A. Yes, sir; that was all I was after.

Q. Prior to election did you have any conversation with anybody about getting the Indians to vote?—A. Yes; I did.

Q. Who?—A. Mr. Marshall here took me down to the Dispatch office the night before election.

Q. Who were there?—A. Judge Wickersham was there and the man who owns the press, I think it was, and two boys, were in the pressroom working, but there in the office was only Mr. Wickersham and Mr. Marshall and another man; I can not recall his name.

Q. How did you come to go there?—A. Mr. Marshall asked me on the street and invited me to go down there with him. He met me on the street here and invited me down, so I walked down with him, and he had a talk with me in the office.

Q. What did he talk about?—A. He was talking—he started to influence me to get the Indians interested in this matter of election. Then Mr. Wickersham spoke up and said that he had "Nigger" Watson down at Craig working for him; that he was getting all the natives down there interested in the election for him; and told me that "Nigger" Watson went to his own expense getting these sample ballots printed, and other matters; took a trip over to Craig at his own expense; and the only word I said was I could not afford to do that. If I had a little time and could have done a favor, I would, but it was too late; it was the night before election, and I could not do anything. All I could do was to accept those ballots from him and the others.

Q. Now, about this man Francis Joseph, did he ever tell you who he voted for?—A. No; he did not.

Q. You don't know who he voted for?—A. No; I do not.

Q. Did Harry Anderson ever tell you who he voted for?—A. No, sir.

Q. You don't know who he voted for?—A. I don't know who he voted for.

Q. Do you know how he talked?

Mr. RUSTGARD. I object to that as immaterial and irrelevant and calling for a conclusion.

Q. Did he say who he was supporting?—A. No; he did not say who he was supporting.

Q. Did Francis Joseph say who he was supporting?—A. No; he didn't say; he didn't tell me.

Q. Do you know who they supported?—A. No, sir.

Q. Have you any opinion as to who they voted for?—A. No; I have no opinion at all; I might be the wrong way.

Q. Have any of the boys in this list, whose names have been read to you as living in Auk Village, told you who they voted for?—A. No, I don't think so; none of them told me how they voted.

Q. You don't know who they voted for?—A. No, sir; except there is one right here in town that told me how he voted.

Q. Who did he vote for?

Mr. RUSTGARD. Objected to as immaterial and not the best evidence and hearsay.

A. He voted for Wickersham.



Q. What is his name?—A. Willie Peters, and I think a boy from the island also told me a week or two ago; I was talking to him.

Q. Who did he say he voted for?

Mr. RUSTGARD. Objected to as not the best evidence and hearsay and incompetent.

A. He voted for Wickersham.

Q. What is his name?—A. William Brady.

Q. Those are the only two who told you how they voted?—A. Those are the only two who told me how they voted; yes, sir.

Q. Did Charley Bobb tell you who he voted for?—A. No, sir.

Q. Did you take these affidavits to any of the boys who had not severed their tribal relations or had not adopted the habits of civilized life?—A. No; I did not.

Q. Were there any natives to whom you did not take these affidavits?—A. I did not take them to anyone I did not know.

Q. Well, were there natives you did not take them to; you did not take them to all the natives, did you?—A. No; I did not take them to all the natives.

Q. You can name some you did not take them to; can not you?—A. Yes, sir; I can.

Mr. RUSTGARD. Object to that question as immaterial.

Q. How many?—A. Well; I have got 32 I knew that lived down in Auk Village, 32 that didn't have anything to do with election; they didn't vote; they don't know anything about politics.

Q. And you didn't take papers to them?—A. No; I did not.

Q. Why didn't you take them to these 32?—A. I knew they wasn't fit for it; they didn't understand it.

Q. You only took the affidavits to such natives as you knew were qualified to vote?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Recross-examination by Mr. RUSTGARD:

Q. Well, did you take those affidavits to the 32 you referred to?—A. I took those affidavits to the boys I thought were able to vote in case they were turned down and had to swear their vote in.

Q. You took them to all of the natives, didn't you?—A. No, sir.

Q. How many did you take them to?—A. I had half a dozen which I took to the boys. I didn't give them all at once; I gave them to them as I met them on the street in the evening.

Q. How many in Auk Village were there whom you considered were not fit to vote?—A. There are 32 that I know.

Q. That you know that were not fit to vote?—A. Yes, sir.

Q. They haven't adopted the habits of civilized life?—A. They have adopted the habits of civilized life in a certain way, but they don't know how to read or write and can not speak enough English to understand it.

Q. So you were satisfied they had no right to vote?—A. No; they had no right to vote.

Mr. RUSTGARD. That is all.

Re-redirect examination by Mr. HELLENTHAL:

Q. None of those 32 voted, did they?—A. No, sir.

Mr. RUSTGARD. There is one point I would like to have Mr. Marshall cross-examine the witness on.

By Mr. MARSHALL:

Q. When was this occasion that you went down to the Dispatch office with me?—A. When?

Q. Yes.—A. The night before election.

Q. Where did I pick you up, do you remember?—A. Right here in front [indicating]. No; it was over here [indicating] the first time I met you, right across from Burford's corner.

Q. Wasn't it just as you came out of the Democratic headquarters down here below the Alaska Hotel?—A. No; it wasn't.

Q. What was the principal topic of the conversation down there at the Dispatch office when we went down there?—A. All I understood, you took me down there and you showed me a plat of the trap site, the fishing geer, and you showed me how it was situated, and that thing I didn't understand anything about it. I told you I didn't understand fishing and could not say anything about it.

Q. Well, wasn't the main subject of my conversation down there the cause of the Sulzer fisheries bill and its effect on seine fishermen in Alaska, all fishermen except trap fishermen?—A. Some thing to that effect, but I didn't understand fishing, I told you that that evening.

Q. Well, that was the main topic?—A. That was the main topic; yes, sir.

Q. And didn't Judge Wickersham tell you that he had explained that bill down at Ketchikan, and that among others who had listened to his explanation and talked to him about it were some native fishermen, and that they were pretty much worked up over the fact that that bill would deprive them of the opportunity to fish?—A. Something to that effect, yes, sir; as near as I can remember.

Q. Do you remember what I said to you about voting at the election that evening?—A. Yes, sir.

Q. What did I say?—A. You handed me those bills and told me to distribute them amongst the boys that I knew. That is about all that I remember.

Q. What boys did I refer to?—A. You didn't mention any names.

Q. I have known you for quite a number of years, haven't I?—A. Yes, sir.

Q. When I was commissioner?—A. Yes, sir.

Q. And you had reason to suppose that I knew that you were a citizen, that you had established your citizenship rights?—A. Yes, sir.

Mr. MARSHALL. That is all.

By Mr. HELLENTHAL:

Q. These bills that you refer to that Mr. Marshall gave you, were Wickersham sample ballots, were they not?—A. Yes, they were Wickersham ballots; yes, sir.

Q. And the object of giving them to you was to get the boys to vote that ticket?

Mr. RUSTGARD. I object to stating the object. If he wants to state anything that would be material proof in that respect, all right.

Mr. GRIGSBY. Let it go, that is plain enough.

Mr. HELLENTHAL. That is all.

SEWARD KUNZ.

#### DEPOSITION OF OLAF THORENSEN.

OLAF THORENSEN, a witness produced for and on behalf of the contestee, being duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. HELLENTHAL:

Q. You may state your name.—A. Olaf Thorensen.

Q. Where do you reside, Mr. Thorensen?—A. At the present time I reside here in Juneau.

Q. In Juneau?—A. Yes, sir; I have been back here since February.

Q. You resided for a time at Sheep Creek or Thane?—A. Yes, sir; at Sheep Creek before this. I was at Sheep Creek for about a year or so, and then I went below for a couple of months. During that year I was at Sheep Creek I had a controversy over my right to vote at Thane. I had been sleeping in one of Tom Knudson's cabins down here for about three or four months.

Q. You had been sleeping in one of Tom Knudson's cabins here in Juneau for three or four months?—A. Yes, sir; on Willoughby Avenue.

Q. On Willoughby Avenue in the town of Juneau, Alaska?—A. Yes, sir; for about three or four months.

Q. How long had you been sleeping there before election?—A. For about 10 days before election, 8 or 10 days, I could not say just which it was.

Q. You had been sleeping in his cabin at Juneau, you mean, until about 10 days before election?—A. Yes, sir; 8 or 10 days, but during that time I worked at Thane, took my meals out there, took my meals at Thane and most of my time was spent at Thane, but at nighttime I stopped in this cabin.

Q. You stopped at night time in this cabin?—A. Yes, sir; until about eight or ten days before election last fall.

Q. Until about eight or ten days before election. Eight or ten days before election you moved to Thane again?—A. Yes, sir.

Q. You moved back to Thane about eight or ten days before election?—A. I moved back to Thane about eight or ten days before election; yes, sir.

Q. And you had been sleeping in the cabin of Tom Knudson for about four months?—A. Yes, sir.

Q. Now, had you ever lived at Thane before that?—A. Yes, I lived at Thane before that for about a year. I worked at the Thane mill. Last summer I worked at the Thane mill all summer but I lived in town here. In the evenings I would chase back and forth with a jitney, but I stayed here at night so as to take the men out in the morning.

Q. You were running a jitney between here and Thane?—A. Yes, sir; I was running a jitney at night times and I would stay in town here at night time in order to take the men to Thane in the morning at 7 o'clock.

Q. Did you ever live in Juneau before that?—A. Before that, for about three years or so, I made my home at the Bergmann Hotel; that is, between work at different times around here I would call in there and used to have my hang-out at the Bergmann Hotel.

Q. That is in Juneau?—A. Yes; in Juneau; the Bergmann Hotel in Juneau, before that.

Q. Did you vote on election day?—A. Yes, sir.

Q. Where did you vote?—A. I voted at Thane. You mean last fall?

Q. Yes.—A. Yes, sir; at Thane.

Q. That is the November election last fall?—A. Yes, sir; I voted at Thane.

Q. Who did you vote for?—A. I voted for Wickersham.

Q. You are a citizen of the United States?—A. Yes, sir.

Q. You have your second papers?—A. No; I came to this country when I was seven years old and my father had his papers before I was twelve years old.

Q. What did they do with your ballot?—A. Why, they challenged my ballot down there and I argued with them that I had a right to vote there, that that was my home, to a great extent. They told me I would have to go back to Juneau and vote on account of I had only been there eight or ten days in that voting precinct, so I argued then with them about my going back to Juneau, that in Juneau they might call this my residence and I didn't want to be running back and forth, so I swore in my vote.

Q. What did they do with your ballot?—A. I could not say.

Q. Did they put it in an envelope?—A. I could not say. I offered to swear in my vote and they could not refuse that. Mr. Reedy wanted to make out the challenge and I wanted to make it out. He said, "You are not allowed to make it out," so he made it out and he made it out contrary to what I wanted it, but finally I signed it and told him I wasn't going to Juneau so would let it go as it looked and signed it.

Q. He wrote into the challenge something?—A. He wrote in it that I had been there eight days, which was correct, but he didn't say the time I had been working there and the last eight days I had been sleeping there, but that I had been in that voting precinct 8 or 10 days.

Q. Who wrote that in with a pen?—A. Mr. Reedy, the judge of election.

Q. Didn't he take that challenged vote together with your ballot and put it in an envelope?—A. I believe he did, something like that.

Q. Well, they didn't put it in the ballot box while you were there?—A. No, sir; I went out right after I signed it.

Q. Did they put it in an envelope?—A. I believe they did.

Q. But what they did with the envelope, you don't know?—A. No, sir; I don't know.

Q. But you do know they did not put the ballot in the box while you were there?—A. I didn't see them do it.

Q. Now, then, before you commenced to sleep in Tom Knudson's cabin here in Juneau, you had been sleeping and working at Thane?—A. Yes, sir.

Q. For about one year, sleeping and eating and working at Thane?—A. Yes, sir.

Q. And took your meals at Thane?—A. Yes, sir.

Q. Now, then, you were running a jitney at that time?—A. In the evenings. I still worked at Thane during the day.

Q. You still worked at the mill?—A. Yes; I still worked at the mill.

Q. And you were making a little extra money running the jitney in the evenings?—A. Yes, sir.

Q. After your work, then, in the evenings you started to run the jitney and took the boys to Juneau?—A. Yes, sir.

Q. And you wanted to take a load of men to Thane in the morning again before work?—A. Yes, sir.

Q. So for that reason you got a chance to sleep in a cabin here?—A. Yes, sir.

Q. But you still continued to work at Thane and you continued to take your meals at Thane? A. Yes, sir.

Q. And you continued to eat at Thane?—A. Yes, sir; most all my meals, I think. I took breakfast here in town but most of my meals I got at Thane.

Q. The only reason you got a room in Knudson's cabin and slept there was so you could take a load in your machine to Thane the next morning?—A. Yes, sir.

Q. So as to make that extra money?—A. Yes, sir.

Q. But you held your job, worked for the company in the mill at Thane?—A. Yes, sir.

Q. Thane is the same as Sheep Creek?—A. Yes, sir; the same thing.

Mr. HELLENTHAL. That is all.

OLAF T. THORENSEN.

DEPOSITION OF J. W. BELL.

J. W. BELL, a witness produced for and on behalf of contestee, being duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. HELLENTHAL:

Q. State your name?—A. J. W. Bell.

Q. Where do you reside?—A. In Juneau, Alaska.

Q. How long have you lived in Juneau?—A. Since June, 1906.

Q. What official position do you hold, if any?—Clerk of the United States District Court for the district of Alaska, division No. 1.

Q. Do you, as such clerk, keep a record of the native Indians who have applied for certificates under chapter 24, of the act of the Legislature of the Territory of Alaska, entitled "An act to define and establish the political status of certain native Indians within the Territory of Alaska," approved April 26, 1915?—A. Yes, sir.

Q. Have you that record with you?—A. Yes, sir. [Witness produces book.]

Q. Is that book you have there the record?—A. Yes, sir.

Q. Will you state, Mr. Bell, whether or not there has been any such applications granted to Indians residing at Klawock?—A. Yes, sir.

Q. How many?—A. I think there is one. No; there are two.

Q. What are their names?—A. (Witness refers to book.) George Demmert and L. P. Wilson.

Q. I will show you this blank form, Mr. Bell. State whether or not that is the form of certificate which is issued in such cases.—A. Yes, sir.

Mr. HELLENTHAL. We offer that in evidence and ask to have it marked "Contestee's Exhibit No. 1."

(Certificate marked "Contestee's Exhibit No. 1," by notary and made a part of this deposition.)

Q. State whether or not there are any applications granted to Indians residing at Hydaburg.—A. Yes, sir.

Q. How many?—A. One.

Q. And what is his name?—A. Frank Mason.

Q. Are there other applications undisposed of from these two places?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Cross-examination by Mr. RUSTGARD.

Q. When was the application of George Demmert of Klawock granted?—A. May 20, 1919.

Q. When was the application of L. P. Wilson of Klawock granted?—A. May 20, 1919.

Q. When was the application of Frank Mason granted?—A. October 5, 1918.

Q. Does your record show that any application was granted any native of Douglas or Juneau?—A. Yes, sir.

Mr. GRIGSBY. Objected to as not proper cross-examination.

Q. Now will you give the names of the natives of Douglas whose applications were granted?

Mr. GRIGSBY. Same objection.

A. David Charles.

Q. What date is that?—A. January 8, 1917.

Q. Now is that the only one from Douglas?—A. I believe so.

Q. Have you got the record of the applications granted to natives living at Juneau?—A. Yes, sir.

Q. Who are they? Give their names and the date when their applications were granted.

Mr. GRIGSBY. Same objection.

A. Seward Kunz, September 26, 1916; Harry Willard, May 11, 1918; James Watson, June 3, 1918; John Williams, March 8, 1919; Josephine Scott, October 25, 1918.

Q. You have the record of other natives whose applications have been granted?—A. Oh, yes.

Q. How many, all together, in this division?—A. Seventeen.

Q. Give their names and the date of the granting of the applications of the others and their places of residence.

Mr. GRIGSBY. Same objection.

A. I don't know which ones I have given now.

Q. You have given Kunz, Willard, Watson, Williams, Demmert, Wilson, Mason, and David Charles.—A. David P. Howard, Sitka, July 5, 1917; Cyrus E. Peck, Sitka, September 22, 1916.

Mr. GRIGSBY. We make the same objection to all this as not proper cross-examination.

A. Samuel C. Jackson, Haines, March 31, 1918; Andrew Peter Johnson, Sitka, September 29, 1919; John Do-Kom James, Sitka, May 1, 1919; Cyrus William Jacobs, Sitka, April 29, 1919; Jean Wannamaker, Sitka, April 29, 1919; Andrew Wannamaker, Sitka, April 29, 1919.

Q. Is that all?—A. That is all except those I gave before.

Q. The total for this division is 17?—A. Seventeen; yes, sir.

Q. And how many of those received their papers prior to November 5, 1918?

Mr. GRIGSBY. Objected to as not proper cross-examination and an effort to encumber the record and run up the expense of this contest on the part of the contestee.

A. Eight of them.

Mr. RUSTGARD. Well, I offer in evidence chapter 24 of the session laws of the Territory of Alaska for 1915, that being the same act under which these applications were made and certificates issued.

Mr. HELLENTHAL. We object, the committee will take judicial notice of that act, and it will only encumber the record.

Mr. GRIGSBY. Where is it?

Mr. RUSTGARD. I will furnish a copy of it to be attached to this deposition and ask that it be marked "Contestant's Exhibit E" and made a part of this deposition.

J. W. BELL.

#### DEPOSITION OF GEORGE DEMMERT.

GEORGE DEMMERT, a witness produced for on behalf of the contestee, being duly sworn, testified as follows:

Direct examination by Mr. HELLENTHAL:

Q. What is your name?—A. George Demmert.

Q. Where do you live?—A. In Klawock.

Q. Klawock is in the southern part of the first division of the Territory of Alaska?—A. Yes, sir.

Q. How long have you lived there?—A. I have lived in Klawock for the last five years.

Q. Where did you live prior to that time?—A. Before I went to Klawock I lived in Shakan.

Q. That is also in Alaska?—A. Yes, sir.

Q. Where were you born?—A. In Shakan.

Q. In Shakan, Alaska?—A. Yes, sir.

Q. What race do you belong to?—A. I belong to the Thlinget race.

Q. That is the Thlinget Tribe?—A. Yes, sir.

Q. And the Thlinget is a tribe of the Alaska Indian race?—A. Yes, sir.

Q. Are you a full-blooded Indian?—A. Yes, sir.

Q. Where were you educated?—A. At Sitka.

Q. Do you read and write the English language?—A. Yes, sir.

Q. How much education did you get, Mr. Demmert?—A. Well, I stayed in the school six and a half years and I went up to about the fifth or sixth grade, I think it was.

Q. And have you had any schooling since that time?—A. Yes, sir; what reading I did at my own home.

Q. You finished your education by reading at your own home?—A. I wouldn't claim to have finished my education, but I read all I can; every time I have a chance.



Q. How long since you left school?—A. I left school in 1902.

Q. How old are you?—A. I am about 36 years old.

Q. What is your occupation?—A. For the last five years I have been working in a store.

Q. What store?—A. The Klawock Commercial Co.

Q. What work do you do in the store?—Why, I am storekeeper.

Q. Do you manage the store?—A. Yes, sir.

Q. You were manager of the store?—A. Yes, sir.

Q. Of the Klawock Commercial Co.?—A. Yes, sir.

Q. And as such manager you bought the goods?—A. Yes, sir; I bought the goods.

Q. And fixed the prices and all that sort of thing?—A. I helped to fix the prices.

Q. You had others to assist you?—A. Yes, sir.

Q. Who was the Klawock Commercial Co. organized by?—A. It was organized by all of the natives; not all the natives, but the majority of the natives there.

Q. It is a cooperative concern?—A. Yes, sir.

Q. And is it a corporation?—A. Yes, sir.

Q. And the natives own stock in it?—A. Yes, sir.

Q. And you have been elected their manager?—A. Yes, sir.

Q. And you held that position for five years?—A. Yes, sir.

Q. Do you belong to any church?—A. Yes, sir.

Q. What church?—A. The Presbyterian Church.

Q. Do you belong to any lodges?—A. Yes, sir.

Q. What lodges?—A. I belong to the Klawock Brotherhood.

Q. What is the Klawock Brotherhood?—A. The Klawock Brotherhood is a society organized by the boys of the town to help each other in need of help, especially those who come from other parts of Alaska, and we have carried that out pretty well.

Q. It is a charitable organization?—A. Yes, sir.

Q. Do you hold any official position?—A. Yes, sir.

Q. What official position is it?—A. I am their secretary.

Q. Of the town?—A. No, of the lodge.

Q. You are the secretary of the lodge?—A. Yes, sir.

Q. Do you hold any official position in the town?—A. No, not this year.

Q. Did you before?—A. Yes, sir.

Q. What was that?—A. I was the secretary of the town.

Q. Did you hold any position on the city council in that town?—A. Yes, sir.

Q. What was that?—A. I was one of their councilmen.

Q. You were a member of the city council?—A. Yes, sir.

Q. How long were you a member of the city council?—A. Two years.

Q. Where do you reside—at Klawock?—A. Yes, sir.

Q. What kind of a house do you live in?—A. Well, I have got a bungalow, 26 by 28 feet.

Q. How many rooms?—A. Five rooms.

Q. How much did it cost?—A. Why, the house alone cost about \$1,200.

Q. How is it finished?—Why, she is finished outside with two thicknesses and a paper between and then she is all ceiled with 3-inch ceiling inside. There is a sitting room, kitchen, bathroom, and two bedrooms upstairs.

Q. You have a sitting room, a kitchen, a bathroom, and two bedrooms?—A. Yes, sir.

Q. Now, what are the furnishings in it. In a general way I mean.—A. Well, sir; I have got chairs, beds, a piano, and a talking machine; in fact, all the necessary equipment to have a happy home.

Q. Are you a married man?—A. Yes, sir.

Q. How many children have you?—A. Four.

Q. Did you vote at the last election?—A. Yes, sir.

Q. Did you vote at the election preceding the last election?—A. Yes, sir.

Q. I mean the election two years ago; did you vote then?—A. Yes, sir.

Q. I mean in 1916; did you vote that year?—A. I think so; I think I voted.

Q. Wasn't your vote challenged in 1916?—A. Yes, sir.

Q. On what ground was it challenged?—A. Why, my vote was challenged; they claimed I was living on a reservation.

Q. Was it challenged this last time?—A. No, sir.

Q. You are a musician, too; are you not?—Yes, sir.

Q. Do you play at the church?—Yes, sir.

- Q. And at the school and at entertainments?—Yes, sir.
- Q. Do you know William Stewart?—A. Yes, sir.
- Q. And R. J. Peratovich?—A. Yes, sir.
- Q. And J. K. Williams?—A. Yes sir.
- Q. And Thaddeus Isaacs?—A. Yes, sir.
- Q. And L. P. Wilson?—A. Yes, sir.
- Q. Jack J. Peratovich?—A. Yes, sir.
- Q. Tecumpsa Collins?—A. Yes, sir.
- Q. Charles W. Demmert?—A. Yes, sir.
- Q. Sam Gunyah?—A. Yes, sir.
- Q. Sam Davis?—A. Yes, sir.
- Q. Lee Anniesket?—A. Yes, sir.
- Q. Maxfield Datlin?—A. Yes, sir.
- Q. Johnnie W. Anniskett?—A. Yes, sir.
- Q. Cylda Fields?—A. Yes, sir.
- Q. And Arthur James?—A. Yes, sir.
- Q. John Wilson?—A. Yes, sir.
- Q. And Frank Williams?—A. Yes, sir.
- Q. R. D. Collins?—A. Yes, sir.
- Q. And Peter Anniesket?—A. Yes, sir.
- Q. Where did these all reside?—A. They all lived at Klawock.
- Q. Are they Alaska natives?—A. Yes, sir.
- Q. How long have you known these gentlemen?—A. Why, I have known them for quite a number of years.
- Q. Do you know whether they can read and write the English language?—A. Yes, sir.
- Q. Can they or can they not read and write the English language?—A. Well, the majority of them, pretty near all of them, can read and write and speak the English language, in fact all of them can speak pretty good English.
- Q. Do you know whether these gentlemen whose names have been read to you have severed their tribal relations?—A. Yes, sir.
- Q. Have they or have they not?—A. They all have.
- Q. And do you know whether they had severed their tribal relations prior to last year, prior to the last election, before the last election?—A. Well, sir, they have ever since I came to Klawock. I haven't seen anything there what they call the old custom in Klawock.
- Q. This was five years ago?—A. Five years ago; yes, sir.
- Q. All these natives whose names have been read had severed their tribal relations five years ago?—A. Yes, sir; or maybe more.
- Q. But you know that they had severed their tribal relations at least that long?—A. Yes, sir.
- Q. Had they all adopted the habits of civilized life?—A. Yes, sir.
- Q. And they had done this prior to the time that you came to Klawock?—A. Yes, sir; and a number of years before I got there.
- Q. Is there any chief down there?—A. No; not any Indian chief; not the old-style chief.
- Q. Have they ever had that kind of a chief since you have been in that part of the country, since you have been there?—A. No, sir.
- Q. Did they ever keep up any tribal customs at all since you have been there?—A. No; I never saw any there.
- Q. You never saw any of that yourself?—A. No, sir.
- Q. What kind of houses do they live in?—A. They live in houses just like you got around here, every man has got his own house.
- Q. They live in the same kind of houses that white people live in?—A. Yes, sir.
- Q. The same as your house?—A. Yes, sir.
- Q. What occupation do these gentlemen follow?—A. I don't know just how many have got operator's license.
- Q. What operator's license?—A. That is engineer and captain's license.
- Q. Engineers' and captains' licenses?—A. Yes, sir. That is what I mean, some of them up to 65 foot gas boat, license.
- Q. A large number of men at Klawock have got these licenses?—A. At least four or five have, I could not say for sure how many.
- Q. They have been licensed by the custom officials as engineers and captains?—A. Yes, sir.
- Q. And what business do these gentlemen as a rule follow?—A. Why, the majority of them follow fishing.

Q. They are fishermen?—A. Yes, sir.

Q. Do any of them get any support from the Government?—A. No, sir.

Q. They are all self-supporting?—A. Yes, sir.

Q. How much are you worth?—A. Well, sir—

Q. That is to say how much money are you worth?—A. That is including the property?

Q. Yes.—A. I should judge pretty close to \$30,000.

Q. You are worth about \$30,000?—A. Not quite, but between \$25,000 and \$30,000.

Q. How about these other natives whose names I have read, are they property owners?—A. Yes, sir; every one, I think does.

Q. You mean every one are property owners?—A. Yes, sir.

Q. And are some of them worth as much as you are?—A. Some are worth more.

Q. Mention some of the names of those who are worth more than you are?—

A. R. J. Peratovich, Charley Demmert, and Jack Peratovich.

Q. They are worth more than \$30,000?—A. Yes, sir; I think so.

Q. And many of the others have considerable property?—A. Yes, sir.

Mr. Hellenthal: That is all.

Cross-examination by Mr. RUSTGARD:

Q. What is your income every year?—A. Well, I should think pretty close to \$3,000.

Q. What is Charlie Demmert's income?—A. I don't know.

Q. What is his business?—A. He is foreman at the cannery, and he has got stock in the cannery, too.

Q. What cannery is that?—A. The cannery at Bucareli.

Q. Who owns the cannery?—A. Why, I understand a company by the name of Hendrickson Bros, I understand.

Q. Now, Jack Peratovich; what is his business; he is storekeeper, isn't he?—A. Yes, sir.

Q. What is his income?—A. I have no idea.

Q. Did you ever pay an income tax?—A. No, sir.

Q. Did Jack Peratovich ever pay an income tax?—A. I don't know.

Q. None of you people living in Klawock ever paid an income tax, did you?—A. I think R. J. Peratovich did.

Q. You think so?—A. Yes, sir.

Q. What makes you think so?—A. When I was in the store I used to see him come down with some applications and some stuff like that, but then I have always been too busy to pay attention to this, what he was doing.

Q. What made you think it was an income tax?—A. Well, I understood him to say it was an application for an income tax.

Q. Did you ever pay an income tax?—A. No, sir.

Q. How many live there at Klawock?—A. Well, I think there are over three hundred.

Q. You live there; what is known as the Klawock Indian Reservation?—

A. Well, I understand they call it a reservation.

Q. An Indian reservation?—A. Yes, sir.

Q. That was a reservation that was created by the President of the United States in 1914?—A. Why, referring to that, I don't know nothing about it.

Q. Now, I show you this map that is attached to the Executive order of April 21, 1914, creating the Klawock Indian Reservation and ask you whether or not the Klawock you refer to is not situated on what, on that map, is marked "Klawak Reservation"? [Witness examines map.]—A. Yes, sir.

Q. Now, so that you and the other natives whom you have mentioned live on what on that map is marked "Native village"?—A. We don't go by the "village," we go by the name of a town.

Q. Yes; but it is the same town that is marked on the map here "Native village," isn't it?—A. Yes, sir.

Q. That is where you and all these people whom you have referred to as having a home live?—A. Yes, sir.

Q. And where you lived last summer and fall?—A. Yes, sir.

Q. And have been living there all the time?—A. Well, not all of them but some of them come there for the school, we have a good school there.

Q. The Government of the United States is maintaining a school there?—A. Yes, sir.

Q. And the school-teacher is one Mr. Hibbs?—A. Yes; he was the last five years.

Q. What is his first name?—A. C. E.

Q. Does he live there now?—A. No, sir.

Q. When did he leave there?—A. He left there last July, I think it was.

Q. July of this year?—A. Yes, sir.

Q. He has been there as school-teacher for the United States Government for the last five years?—A. Yes, sir.

Q. And he was getting the school supplies for you?—A. Yes, sir.

Q. And the Bureau of Education furnished those supplies?—A. Yes, sir.

Q. And you have several teachers there?—A. Yes, sir.

Q. And Hibbs is the fellow who started that cooperative store; he helped you start it?—A. No; he didn't.

Q. Had he nothing to do with it?—A. He helped to keep the books.

Q. Hibbs is the fellow who wanted you natives to go to work and start something like that so that you could learn to do business, wasn't he?—A. Why, he never—in fact he never talked to us about any business at all, he tended to his school and teaching.

Q. He wanted you to start the store, didn't he; he helped you to start it?—A. He wasn't there when the store started in the first place.

Q. Wasn't he there when it was organized?—A. Yes; two or three years after it was organized.

Q. Who was it made out the papers organizing it?—A. In the first place we had a little store started at Shakan organized by the natives.

Q. Hibbs is the man who helped you organize it down here at Klawock, wasn't he?—A. He did not.

Q. Who did?—A. Charley Demmert. Charley Demmert was the first man who ever started a store in Shakan and he is the first man who got the native boys together, and got to talking to them about their business.

Q. That was at Shakan?—A. Yes, sir.

Q. How far is that from Klawock?—A. About 63 miles, I think it is.

Q. Now, in preparing the papers, in making out the papers to form this organization, did Hibbs help you?—A. I don't think so. Of course, the store was running two or three years before Mr. Hibbs ever came to Klawock.

Q. It was running before Hibbs came to Klawock?—A. In fact, it was about five years the store was running in Shakan before it was moved to Klawock.

Q. But I am talking about Klawock—A. And I am telling you where the store got started, too.

Q. Now, what time did the store get started at Klawock?—A. I could not tell just exactly what year it was started or when it was moved there.

Q. Who was the Government teacher at the time it started at Klawock?—A. I don't know who the Government teacher was at Klawock at that time; I wasn't living at Klawock at that time.

Q. Mr. Hibbs during the last five years has helped you to keep the books?—A. Yes, sir.

Q. And helped you—showed you how to run it?—A. He looked after the books and I looked after the store and did most of the buying.

Q. Did Hibbs get paid anything for keeping the books?—A. I don't know; not from the company, I don't think.

Q. Who paid him?—A. I think he was paid by the Bureau of Education as one of the principals of the school, and he also got a contract to help with the books, I think.

Q. Now, it was in his capacity as teacher, because he was paid by the Government, he helped you to keep the books and showed you how to do it?—A. Yes, sir.

Q. Now, the land on which the village is built all belongs to the Government of the United States, doesn't it?—A. I don't know about that, but I understood it belonged to the natives that live there.

Q. Well, you haven't any patent or deed from the United States Government to the land, have you?—A. No, sir.

Q. And are there any white people living there?—A. Only the teachers.

Q. Now, who are the teachers?—A. I don't know the names of the new teachers there now, but the principal is Mr. Rowley.

Q. He is the principal?—A. Yes, sir.

Q. Now, then, how many assistants has he got?—A. Three.

Q. Now these are the only white people living on the Klawock Reservation?—A. No; the preacher.

Q. Who is the preacher?—A. Mr. Bromley.

Q. He is the Presbyterian preacher?—A. Yes, sir.

Q. And he has lived there several years?—A. Yes, sir.

Q. Are there any white people living there aside from the Presbyterian preacher and his family and the Government school-teachers?—A. There are quite a few white people living on the other side.

Q. But I am talking about the reservation—the Klawack Reservation.—A. There are some whites that are married to natives living there.

Q. How many?—A. There are three, I think it is.

Q. Can you give us their names?—A. George Nelson, "Nigger" Watson, and the other fellow has left; his name is Peter Dane.

Q. There are two white people aside from the preacher and his family and the teacher who live on the Klawock Reservation?—A. Yes, sir.

Q. Just two and those are men married to native women?—A. Yes, sir.

Q. They were there before the reservation was created?—A. I don't know.

Q. How long have they been there?—A. I don't know how long they have been there.

Q. Had they been there since before you came there?—A. I think so.

Q. And you have been there five years?—A. Yes, sir.

Q. And they were there when you came there?—A. Peter was there when I came there.

Q. And what about the others; what about Nelson?—A. I think Nelson came there after I did.

Q. Are you sure of that?—A. Yes, sir.

Q. What time did he come there?—A. I could not tell you what time he came there. It is a hard proposition to tell, when a man isn't taking notice of anybody, just what time he came there.

Q. Now, the houses that the natives live in are just about like the houses in Auk Village, are they?—A. No; they are better houses.

Q. Much better?—A. Yes, sir.

Q. They are old houses, most of them, aren't they?—A. No, sir. If you took a trip to Klawock I wouldn't be ashamed to take you into any of the houses there.

Q. Klawock is an old village isn't it—an old camp?—A. It was an old camp; that is what I would call it.

Q. It was an old camp?—A. Yes; a camp where some of the old people use to go to put up their fish for the fall; but it has never been known to be a village at all, not among our people.

Q. About how many new houses are there there?—A. The new houses would be—I wouldn't know just how many houses there are there; but there are not any old houses there at all, not any what I would say was the old customhouse; there is not any of those there.

Q. You have got a town government there?—A. Yes, sir.

Q. You have got that governed under the law created by the Legislature of Alaska allowing the natives to run their own town government?—A. Yes, sir.

Q. That is what they call chapter 11 of the Territorial laws of 1915, under that government, only the natives have a right to take part?—A. Yes sir.

Q. Only the natives have a right to vote in these elections, isn't that right?—A. Why, those whites that are living there, hey can vote.

Q. Do they vote?—Yes, sir.

Q. When did they participate in voting?—A. What is that, what did you say?

Q. Does the school-teacher vote?—A. Yes, they all vote.

Q. The school-teacher and the nurses?—A. She voted, and Mr. Bromley voted.

Q. At the town election?—A. Yes, sir.

Q. Don't you know the law provides that the qualification of a voter is one who is a member or the descendent of a member of the Thlinget, Tsimpsean, or Hydah people?—A. Well, they must be a descendant if they voted there.

Q. Now what are those people living there, are they Hydans mostly?—A. They are Thlingets. There is only one Hydah there, Thaddous Isaacs, he is a Thlinget, now, I think.

Q. You made a Thlinget out of him?—A. I think so.

Q. And you speak the Thlinget language between yourselves?—A. Yes, they can understand it if you talk Thlinget.

Q. Well, the language of the village or town is the Thlinget language isn't it?—A. Yes, sir, the same as they use here.

Q. Under that law how many councilmen have you got, 12?—A. Yes, sir.



Q. Now all of you Thlingets over at Klawock, you are good Democrats, aren't you?—A. Well, there are good Republicans and good Democrats among them.

Q. You were all for Sulzer, weren't you?—A. No, sir.

Q. You were, weren't you?—A. I was for Sulzer, sure, and I am not ashamed of it either.

Q. And Hibbs was for Sulzer?—A. I don't know who Hibbs was for.

Q. He told you, didn't he, that Sulzer was the right man?—A. No, he never told me that, sir.

Q. He was very active in politics, wasn't he?—A. No, he never talked about politics very much.

Q. Didn't he tell you to go and vote?—A. He asked us to go and vote, but he never told us who to vote for.

Q. Hibbs asked all of these people living there on the reservation to go and vote, didn't he?—A. Not all.

Q. Not all?—A. No, sir, just those who could read and write.

Q. He asked everybody who could read and write to go and vote?—A. Yes, sir.

Mr. GRIGSBY. You are referring to the last election, Mr. Rustgard, that Hibbs asked them to vote?

Mr. RUSTGARD. Yes, I mean the election in the fall of 1918, November 5th.

Q. That was November 5, 1918, that election?—A. Yes, sir.

Q. That is the election Hibbs asked you all who could read and write to go and vote?—A. Yes, sir.

Q. Do you know Edward Smith?—A. Yes, sir.

Q. Who is he?—A. He is a white man.

Q. What is his business?—A. Why, he works in the cannery.

Q. He doesn't live on the reservation?—A. Yes, sir.

Q. He lives on the reservation?—A. Yes, sir.

Q. Is he married to a native woman?—A. To a half-breed girl.

Q. How long has he lived on the reservation?—A. I don't know.

Q. Do you know Fred Williams?—A. Yes, sir.

Q. Who is he?—A. He is a Thlinget.

Q. Does he live on the reservation?—A. He has been living there the last few years.

Q. He lives there now?—A. Yes, sir.

Q. He lived on the reservation last fall?—A. Yes, sir.

Q. And he lives there still?—A. Yes, sir; he is there yet.

Q. Mrs. Charles W. Demmert, that is your brother's wife, isn't it?—A. Yes, sir.

Q. Is she a Thlinget?—A. She is a half-breed. She came from Juneau.

Q. She lives on the reservation?—A. They live in Klawock part of the time—not all the time.

Q. Did they live in Klawock last fall?—A. Yes, sir.

Q. How long have they lived at Klawock?—A. They have lived at Klawock the last three or four years, I think.

Q. And her husband is your brother?—A. Yes, sir.

Q. And Charles Brown, who is he?—A. He is an Indian.

Q. Does he live on the reservation?—A. No; he lives at Karheen.

Q. Where is that?—A. That is a cannery between Shakan and Klawock.

Q. That is his home?—A. Yes, sir; he has been living there.

Q. How much of the time does he live on the Klawock Reservation?—A. He comes in there occasionally.

Q. He hasn't got his home there?—A. I think he was talking about buying a home there. He may have a home there now for all I know.

Q. E. E. Connelly, do you know him?—A. No; I don't know him.

Q. Do you know anybody by approximately that name?—A. No, sir.

Q. Do you know Frank Paul?—A. Yes, sir.

Q. Who is he?

Mr. HELLENTHAL. We object to all this; it is not proper cross-examination.

Q. Is he a native?—A. Yes, sir.

Q. Is he a Thlinget?—A. Yes, sir.

Q. Living on the reservation?—A. He belongs to Killisnoo.

Q. Is Killisnoo his home?—A. Yes, sir.

Q. Did he live on the reservation last fall?—A. Yes, sir; he did.

Q. How long did he live there last fall?—A. Why, I don't know just how long he lived there, but he lived there a few months.

Q. Do you know how long he had been there before election last fall?—A. Why, he fished there all summer.

Q. He fished all summer and did he come to Klawock after fishing season?—  
A. Before fishing season.

Q. He fished at Klawock?—A. Yes, sir.

Q. He is a Thlinget?—A. Yes, sir.

Q. Do you know how those natives down there voted; who they voted for?—  
A. No, sir.

Q. I mean the last election; November 5, 1918.—A. No, sir; but Watson was down there pretty strong for Wickersham.

Q. Who?—A. "Nigger" Watson.

Q. He doesn't live at Klawock, does he?—A. Why, he was there quite a while before the election.

Q. At Klawock?—A. Yes, sir.

Q. What is he; a Thlinget?—A. No, sir; he is a nigger.

Q. He is a fisherman?—A. He is a prospector; I think he is.

Q. Now, it was a question between "Nigger" Watson and Hibbs as to who was going to carry the village, wasn't it?—A. I don't know anything about that.

Q. You don't know anything about that?—A. No, sir.

Q. Do you know anybody that voted for Wickersham?—A. I don't know anybody that voted for Wickersham, but I know quite a few of them was condemning Mr. Sulzer on account of the fish bill, quite a few of the boys, but I could not say who they voted for. In fact, I didn't have time to talk to them and ask them who they voted for; I was too busy selling beans.

Q. Was that before or after election you heard them talk about Wickersham or Sulzer's fish bill?—A. Before.

Q. Are the Indians there Thlingets?—A. Yes, sir.

Q. Now, how far is Klawock from Craig?—A. Why, they claim it is about 6 miles.

Q. About 6 miles?—A. Yes, sir. In fact, they all claim it is about 6 miles; I don't know whether it is 5 or 6.

Q. Did you use your boat to take the boys over there with?—A. Charley took down the *Winifred D* and Bob Peratovich went down with a bunch of boys. There were several boats that went down.

Q. Were there more than two boats running there?—A. There was no boat there that went there regular. The boys liked to run their own boats, so they took more than one boat.

Q. Do you know how many of those natives from Klawock voted at Craig?—A. No, sir.

Q. They went in their own boats, you say?—A. Yes, sir.

Q. Did you have any Democratic sample ballots there?

Mr. HELLENTHAL. Object to that as not proper cross-examination.

A. Not in Klawock.

Q. Didn't you have them at the store?—A. No, sir.

Q. You are sure of that?—A. I didn't see any in our store; that is, not in the commercial store.

Q. Well, I mean Peratovich's store?—A. I don't know; I have got no time to go to Peratovich's.

Q. He is a very good politician, isn't he?—A. I think he is.

Q. He had Sulzer sample ballots, didn't he?—A. I don't know anything about that; I could not tell you.

Q. How far is Klawock from Sulzer?—A. Why, it is over 50 miles, I should judge.

Q. Did your wife vote there?—A. No, sir.

Q. She didn't vote?—A. No, sir; she has her family to look after; it took all her time to look after her family.

Q. Charley voted?—A. Yes, sir.

Q. And his wife voted?—A. Yes, sir.

Q. Do you know how Charley and his wife voted?—A. No, sir.

Q. Didn't they ever tell you how they voted?—A. No; they never told me who they voted for.

Q. They never talked politics with you?—A. No, sir.

Q. You voted for Mr. Sulzer?—A. Yes, sir; I voted for Mr. Sulzer. Charley had no time to talk to me who he voted for, and I had no time to talk to Charley.

Q. You are quite sure you never talked to any of them there as to how they voted?—A. No, sir; I didn't.

Mr. RUSTGARD. That is all.

Redirect examination by Mr. HELLENTHAL:

Q. With reference to those persons whose names Mr. Rustgard has inquired from you about, are they all Alaska natives?—A. Yes, sir.

Q. They have severed their tribal relations?—A. Yes, sir.

Q. And have adopted the habits of civilized life?—A. Yes, sir.

Q. And they are living like white men?—A. Yes, sir.

Q. Every one of them?—A. Yes, sir.

Q. Can they all read and write?—A. Not all, but when it comes down to civilized life, adopting the habits of civilized life, why my old grandfather is living a civilized life and he is about 100 years old now.

Q. And those people in that list of names I read to you, they are all natives of Alaska also?—A. Yes, sir.

Q. And they have all adopted the habits of civilized life?—Yes, sir.

Q. Do you know the Hydah Indians?—A. Yes, sir; I know the Hydah Indians.

Q. At Hydaberg?—A. Yes, sir.

Q. How are they with reference to having severed their tribal relations?—A. They all live a civilized life.

Q. They are similar to the Thlingets?—A. Yes, sir.

Q. They have all severed their tribal relations?—A. Yes, sir.

Q. And have no chief?—A. They have no chief.

Q. And have forsaken all their native customs?—A. Yes, sir; they have even forsaken their old town and moved to a new place, started a new town.

Q. And built new houses?—A. Yes; built new houses altogether.

Q. That is true of all the natives who live at Hydaberg?—A. Yes, sir.

Q. They all live like white people?—A. Yes, sir.

Q. Now, the services held in the church in your town in the evenings; in what language is that held?—A. In the evenings it is held in the English language.

Q. And old people attend that church?—A. Yes, sir.

Q. And in your homes do you speak the English language?—A. Yes, sir; most of the time.

Q. You sometimes speak the native language, but generally you speak the English language, is that true?—A. Yes, sir.

Q. That is true of all the natives living at Hydaberg and Klawock?—A. Yes, sir.

Q. And when you do business in the store do you speak English?—A. I speak English to the majority of the people, but of course there are a few—take the old people who come in—who don't speak English good; I don't speak English to them.

Q. Those are the older people; but the young people speak English?—A. Yes; all the young natives; they all speak English.

Q. Now, you have been asked about the Klawock Reservation. Does the Government have any Indian agent over there?—A. I don't know of any Indian agent there.

Q. Is there anyone who exercises any supervision over the natives?—A. No, sir.

Q. Are the Indians obliged to remain on the Klawock Reservation, or can they go where they please?—A. They can go on their own will.

Q. They can go any place they want to?—A. Yes; they can go any place they want to.

Q. They are not restricted in any way?—A. No, sir.

Q. All the reservation amounts to is that the land is set aside for the Indians?—A. Yes, sir.

Q. Does the reservation go any further in any respect?—A. Not from the way I understand it.

Q. Is there any other kind of reservation there except the reservation of land for the use of the Indians?—A. No; and I understand Hydaburg is about the same; the land is set aside for the natives there.

Q. The land is simply set aside for the Indians in Hydaburg and Klawock?—A. Yes, sir; and also at Metlakatla.

Q. There is no restriction made at all by the Government?—A. No, sir.

Q. You have no rules or regulations formulated by the department?—A. No; not from the Government.

Q. The only laws you have are the general laws of the United States that everyone else have?—A. Yes, sir.

Mr. WICKERSHAM. And that special Territorial law.

Mr. HELLENTHAL. We now offer the Executive order of April 21, 1914, so that it may be in evidence, and ask that it be marked "Contestee's Exhibit No. 2."

Q. Does the Government in anywise assist any of the Indians down there except to maintain the schools?—A. Just to maintain the schools.

Q. That is all the assistance the Indians get from the Government?—A. Yes, sir.

Q. They are all in every wise self-supporting?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Recross-examination by Mr. RUSTGARD:

Q. You spoke about there being a Presbyterian Church at Klawock?—A. Yes, sir.

Q. Who supports that church?—A. The Board of Home Mission.

Q. The Board of Home Mission of the Presbyterian Church?—A. Yes, sir.

Q. The people at Klawock do not support the church?—A. They help to support the church.

Q. To what extent?—A. Well, in the spring they generally take up so much: I don't know just how much; anyway, not very much, I understand, to help on the work.

Q. How do they take that up?—A. They just take that up among the members of the church.

Q. They take up a collection?—A. Yes, sir.

Q. And that is in the spring?—A. But they take up a collection every week, too, to help on the work in the church, for lights, and so forth, and the wood, and things like that; they take up a collection for that every Sunday.

Q. Now, come to the Hydah Reservation. You are acquainted with that reservation, are you?—A. Well, I have been down there a few times.

Q. And this is another race of Indians that live there?—A. Yes, sir.

Q. They are the Hydah Indians?—A. Yes, sir.

Q. They speak a different language from the Thlingets?—A. Yes, sir.

Q. And do the Thlingets and the Hydahs understand each other when each speaks his own language?—A. Some of them.

Q. Some of them speak both languages?—A. Yes, sir; most of them do.

Q. Most of them speak both languages?—A. Yes, sir.

Q. But they are two different languages?—A. Yes, sir.

Q. And two different races of people?—A. Yes, sir.

Q. Now, the Hydahs are a new race of Indians that came into Alaska in later years?—A. I don't know anything about that.

Q. That was before your day?—A. Yes, sir; I am not old enough for that.

Q. How many Hydahs live over at Hydaburg?—A. I don't know.

Q. Now, Hydaburg is on this reservation created by the Executive order of June 19, 1912. I will ask you to look at the map attached to that Executive order. That map shows the place where Hydaburg is located, doesn't it? [Witness examines map.]—A. Yes, sir.

Q. And that is located on the Hydah Indian Reservation, isn't it?—A. Yes, sir.

Q. Do you know how long that reservation has been created as such?—A. No, sir.

Q. That was created as an Indian reservation before you became acquainted with it?—A. I knew the Hydahs a good many years, when they used to live in Hawkan and another town by the name of Klinquan, and I think they went to Hydaburg to forsake all the old customs and to have the people come to one town. I understand they made arrangements for the people to leave their towns and to take up new land altogether.

Q. Now, then, the Government, through the Bureau of Education, had a man to take charge of that work down there?—A. Why, I understand there is a school principal there; one of the teachers.

Q. He had charge of starting that town, didn't he?—A. I don't know a thing about that; I wasn't in the town at the time when it was started.

Q. You know as a matter of fact the Government school teacher was supervising the work of starting the Indians out in that new town?—A. I don't think so.

Q. You don't think so?—A. No, sir.

Q. How far is Hydaburg from Sulzer?—A. Well, I don't know; I don't know just how far it is from Sulzer.

Q. Now, there at Hydaburg they have also a town government under this law of the Territory of Alaska, allowing the natives to run their own town government?—A. They have.

Q. They elect 12 members for the council, all the natives, men and women voting?—A. Yes, sir.

Mr. RUSTARD. I offer this Executive order of June 19th, 1912, creating the Hydra Reservation, in evidence, and ask that it be marked "Contestant's Exhibit F" and made a part of this deposition.

Mr. HELLENTHAL. The only objection I wish to make to that offer is that it is immaterial in that the order does not create an Indian reservation, but merely reserves certain lands for the use of the Indians. The reservation so created is in no sense an Indian reservation. The Indians living there do not live on a reservation in the sense that that term is ordinarily understood.

Q. Now, Mr. Demmert, there is another question I want to ask you about Klawock. Have you got any streets there in the town of Klawock?—A. Yes, sir.

Q. Streets that wagons can go over?—A. Why, I think so.

Q. Now, where is the street running there?—A. It is just one long street that runs along the water front.

Q. Is that built out of boards?—A. Yes, sir.

Q. How wide is it?—A. Twelve feet, I think it is.

Q. Twelve feet wide?—A. Yes, sir.

Q. How long is that street?—A. I could not say just how long the street is, but it is a good long walk.

Q. Well, can not you tell pretty near how long it is?—A. Well, with all the turns it must be about half a mile.

Q. And it is 12 feet wide all that way?—A. Well, it is about 12 feet in the principal part of the town and then there is another walk runs into another place that is not 12 feet, I think it is from 6 to 8 feet wide.

Q. Now, how long is it where it is 12 feet wide?—A. A quarter of a mile, I think.

Q. And then it is a quarter of a mile where it is much narrower?—A. Yes; about 6 or 8 feet.

Q. Made out of boards?—A. Yes, sir.

Q. And up from the ground?—A. Yes, sir.

Q. On trestles; how high from the ground?—A. In places on the ground and other places about 10 or 12 feet high.

Q. Right on the water front?—A. Yes, sir.

Q. That is the only street there is?—A. Yes, sir.

Mr. RUSTGARD. That is all.

Re-redirect examination by Mr. HELLENTHAL:

Q. Is that a planked street in Klawock?—A. Yes, sir.

Q. It is built exactly the same as the planked streets in Juneau are built?—A. Yes, sir.

Q. Just the same as the main street in Juneau?—A. Yes, sir.

Q. And the main street in Klawock, in fact, is built the same as the main streets in all Alaskan towns are built?—A. Yes, sir.

Q. All planked streets?—A. Yes, sir.

Q. The same kind of streets?—A. Yes, sir.

Q. The Presbyterian Board of Home Mission to which you refer is the body that, in part at least, supports the church at Klawock. Is that the same Presbyterian Board of Home Mission that in part supports the white church at Juneau?—A. I think it is; they all go to one meeting, the ministers do.

Q. And they contribute also to the white church and your own?—A. I think so; I am not sure about that.

Mr. HELLENTHAL. That is all.

Mr. RUSTGARD. I offer in evidence, in connection with the cross-examination of the last witness, chapter 11, approved April 21, 1915, of the Session Laws of the Territory of Alaska for 1915, and also chapter 25 of the Session Laws of the Territory of Alaska for 1917, and ask that they be marked "Contestant's Exhibits G and H," respectively, and made a part hereof.

GEORGE DEMMERT.

Whereupon the further taking of testimony was adjourned until Wednesday, the 1st day of October, 1919, at 11 o'clock a. m. of said day.

Now, on this 1st day of October, 1919, at 11 o'clock a. m., all parties being present, the following proceedings were had and testimony taken, pursuant to adjournment:



## DEPOSITION OF DAVID WAGGONER.

DAVID WAGGONER, a witness produced for and on behalf of the contestee, being first duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. HELLENTHAL:

Q. State your name?—A. David Waggoner.

Q. What is your profession, Mr. Waggoner?—A. A minister.

Q. Where do you reside?—A. At Juneau, Alaska.

Q. How long have you resided here?—A. Five years.

Q. Where did you reside prior to coming to Juneau?—A. At Klawock, Alaska.

Q. How long did you reside at Klawock?—A. Oh, a little over 13 years.

Q. You have been in Alaska, then, all told, about 18 years?—A. A little over 18 years.

Q. During all that time you have followed the profession of a minister?—A. Yes, sir.

Q. Have you followed the profession of a minister during all that time?—A. Yes, sir.

Q. Are you acquainted with the Alaska native Indians residing at Klawock?—A. Yes, sir.

Q. And those residing at Hydaburg?—A. Yes, sir; most of them, I suppose; not all of them.

Q. Do you know the following-named persons: George Demmert—

Mr. RUSTGARD. I now object to any evidence as to the condition of life of the Indians on either the Klawock or Hydaburg Reservations for the reason that they live on reservations and it is immaterial as to what their condition of life is; they would still, under the law, not be American citizens and would not be entitled to vote, it having been shown that they are, so far, wards of the Government.

Mr. HELLENTHAL. In connection with the objection just made I wish to say that Klawock is not on a reservation, but is on a tract of land withdrawn from entry by a general proclamation in much the same way and to the same effect that forestries are withdrawn, and that that is all there is to the Indian reservation; that the Indians reside here as they do elsewhere, without any restriction.

A. Yes, sir.

Q. William Stewart?—A. Yes, sir.

Q. R. J. Peratovich?—A. I do.

Q. J. K. Williams?—A. I do.

Q. Thaddous Isaacs?—A. Yes, sir.

Q. L. P. Wilson?—A. Yes, sir.

Q. Jack J. Peratovich?—A. Yes, sir.

Q. Tecumsha Collins?—A. Yes, sir.

Q. Charles W. Demmert?—A. Yes, sir.

Q. Sam Gunyah?—A. Yes, sir.

Q. Sam Davis?—A. Yes, sir.

Q. Lee Anniesket?—A. I do.

Q. Maxfield Datlin?—A. Yes, sir.

Q. Johnnie W. Anniskett?—A. Yes, sir.

Q. Clyde Fields?—A. Yes, sir.

Q. Arthur James?—A. Yes, sir.

Q. John Wilson?—A. I do.

Q. Frank Williams?—A. I do.

Q. R. D. Collins?—A. I do.

Q. And Peter Anniesket?—A. I do.

Q. All these persons reside at Klawock?—A. To the best of my knowledge; they were there the last time I was there.

Q. They are all native Alaska Indians?—A. Yes, sir; they are.

Mr. RUSTGARD. May I ask a question here to clear up one situation? Do you agree that the men whose names you have just called voted at Craig Precinct, November 5, 1918?

Mr. HELLENTHAL. I don't know.

Mr. RUSTGARD. Then, I object to any further investigation as to these men, as it is entirely immaterial if they did not vote.

Mr. GRIGSBY. It is in evidence that they did vote. We will agree that these are the identical persons referred to in the testimony of Harry Willard, the witness on behalf of contestant.

Q. These are the same natives concerning whom George Demmert testified yesterday?—A. Yes, sir.

Q. You were here and heard his testimony?—A. I heard his testimony; yes, sir.

Q. How long have you known these natives, Mr. Waggoner?—A. Well, I have known some of them since the 10th of August, 1901, and I gradually became acquainted with all of them since that date.

Q. You have known them all for some years, then?—A. Some years; yes, sir.

Q. Do you know what, if anything, these natives have done in the way of severing their tribal relations?

Mr. RUSTGARD. I object to that as immaterial and calling for a conclusion.

Mr. GRIGSBY. Does he know, is the question.

A. They have what we as missionaries generally call severing their tribal relations, and according to that standard these people have severed their tribal relations.

Q. Just a minute—the question I asked you was whether you knew?—A. According to our standard, I do.

Q. Do you know; answer yes or no.—A. Yes, sir.

Q. Now, what have they done in the way of severing their tribal relations?

Mr. RUSTGARD. I object to that as calling for a conclusion. Witness has already stated that he bases his judgment on the standard accepted and fixed by the missionaries, which may not be the standard fixed by law.

Mr. GRIGSBY. Now, the question is: What they have done in the way of severing their tribal relations?

A. They are not under the control of a family head or chief or clan head or any family head; they have separate homes; they handle their wealth accumulated as a family and not as a clan; they have adopted the American inheritance law; they are adopting and have adopted—these special men—the Christian marriage relations—the civil—and their homes are not community homes; and they are raising their children as we would, as civilized people would raise their children.

Q. Have they any chief, Mr. Waggoner?—A. Not that I know of.

Q. Well, you would know if they had one?—A. I haven't seen a chief in Klawock in these 18 years.

Q. If they had a chief there, you would know it?—A. If they had a chief that controlled the village I would know it.

Q. Do any of these men whose names have been read to you obey or follow the dictates of any chief or any other Indian officer other than those authorized under the laws of the United States to make civil laws?—A. Not as being a command. They may follow the suggestions or advice of those who are related to them, but they do not obey as a command, but only from their own judgment when they think it best to follow that advice.

Q. You don't understand my question.—A. I mean to say, as a matter of authority.

Q. I mean, in a governmental way.—A. No, sir.

Q. What you mean to say, Mr. Waggoner, is that they will take the advice of others, just as a white man will take the advice of others?—A. Yes, sir.

Q. But I am asking you whether they are under the authority of any chief or any other Indian official in a governmental way?—A. That is what I said; they are not.

Q. There is no government, then, at Klawock other than the Territorial?—A. Yes, sir; that is the Federal Government.

Q. Now, what have those Indians done in the way of adopting the habits of civilized life?—A. The things I have just enumerated.

Q. They have abandoned the tribal customs with relation to marriage and inheritance, and those things?—A. Yes, sir; and building their homes.

Q. They build themselves homes?—A. Yes, sir.

Q. Is their mode of life any different from that of a white man under similar circumstances; I mean a white man who is similarly situated and follows the same occupation?—A. I would say not.

Q. Can these men all read and write the English language?—A. I don't think they all can read and write, but they all speak English so that I can carry on an intelligent conversation with all of them.

Q. Can the larger majority of them read and write?—A. Yes, sir; the larger majority can.

Q. You were connected, at Klawock, with the Presbyterian Mission, I believe?—A. I was.

Q. And the Presbyterian Board of Home Missions maintained a church there?—A. They paid the salary of the missionary, but the other expenses of the church there were all paid by the people there, themselves.

Q. By the native people?—A. By the native organization.

Q. And the manner of maintaining the church there is similar to the manner in which the Presbyterian white church is maintained in the city of Juneau?—

A. That is on the basis of all Presbyterian churches throughout the States.

Q. The white church in the city of Juneau has been maintained in part by the Board of Home Missions for many years, has it not?—A. Yes, sir.

Q. And is similarly maintained?—A. I think a portion of it is not.

Q. The people of Juneau contribute a portion of the expenses of keeping up the church and the Presbyterian Board of Home Mission contributes the balance?—A. Yes, sir.

Q. And that is also true of Klawock?—A. Yes, sir.

Q. Now, what is the situation at Hydaburg; what is the condition of the natives at Hydaburg as compared to what it is at Klawock?—A. Similar.

Q. The Indians residing at Hydaburg live under similar conditions as those of Klawock?—A. Yes, sir.

Q. What have they done in the way of severing their tribal relations, if anything?—A. The first thing was to abandon all land where there could possibly be a chief, and then to build them homes, to observe the marriage laws and inheritance laws of the United States, and to attend to business and other things that are similar to any citizen of the United States.

Q. Now what do these Indians do regarding observing the laws of the United States other than the marriage and inheritance laws?—A. They observe all the laws the same as any other citizen.

Q. You mean these especially because under the tribal custom they had special laws upon the subject?—A. Yes; I mentioned those because as I understand it the laws of 1887 I think it is, that those are things that are considered as abandoning tribal relations and so we have, as workers here among the people, considered those things as essential and always speak of them as essential.

Q. The Indians formerly had laws or customs governing those subjects?—A. They did.

Q. And these have been entirely abandoned?—A. Yes; these have been entirely abandoned.

Q. Do they observe any other Indian customs or laws that you know of, or have they abandoned them all?—A. None that I know of that would be in conflict with any civilized idea. Any race of people have certain customs or traits that are peculiar to their race but which in no way conflict with what you call civilized customs.

Q. I am distinguishing between racial traits and laws. We have our racial traits the same as the American Indians or the Dutch, or the Swedes. They have no customs that are looked upon as laws or rules of conduct, is what I mean.—A. No; they have not; simply those of our own country.

Q. Now, Mr. Waggoner, with reference to these reservations at Klawock and Hydaburg, do you know what, if any, supervision the Government exercises over the Indians that reside at those places?—A. I don't know of any supervision they have over the people as a people.

Q. None whatever?—A. None whatever.

Q. There is no Indian agent at either place?—A. No, sir.

Q. Are the Indians obliged or asked to remain upon these tracts that are reserved?—A. No, sir.

Q. What do they do in the way of going and coming?—A. They are perfectly free.

Q. And has there ever been any indication of an Indian reservation there, at either of those places, in the sense that that term "Indian reservation" is generally understood in the States?—A. Not as I have understood it in the States.

Q. That is, do these people living at Klawock and Hydaburg live under conditions at all similar to those that the Indians live under upon reservations in the States?—A. None that I have ever seen or observed on any of the reservations that I have ever visited in the States.

Q. You have been on reservations in the States?—A. I have.

Q. These lands reserved by Presidential proclamation have not been set aside upon an inclosure in which Indians are kept?—A. No, sir.

Q. They are simply withdrawn as public land from entry?—A. Yes, sir.

Q. Now, do you know the Indians who reside at Juneau?—A. Most of them.

Q. You know them and have observed them in connection with your missionary work?—A. Those that have been in connection with our Presbyterian Mission here.

Q. And the same is true of the Indians residing at Douglas Island?—A. Yes, sir.

Q. You are also minister to them?—A. Yes, sir.

Q. Do you know the following-named Indians residing at Juneau: George Martin?—A. Yes, sir.

Q. Albert Samuels?—A. Yes, sir.

Q. Herbert Martin?—A. Yes, sir.

Q. Billy Martin?—A. Yes, sir.

Q. Tilly Martin?—A. Yes, sir.

Q. Pete Smith?—A. Yes, sir.

Q. Frank Peters?—A. Yes, sir.

Q. Willie Peters?—A. I am not sure about him. I may know him, but I don't know him by that name.

Q. Francis Joseph?—A. I don't know him by that name, either.

Q. Charley Gray?—A. Yes, sir.

Q. George Howard?—A. Yes, sir.

Q. Jack Gamble?—A. Yes, sir.

Q. Charlie Bobb?—A. Yes, sir.

Q. Jimmie Hanson?—A. I don't know him by that name.

Q. George Gamble?—A. I think I know him; I am not sure; I can not recall his face.

Q. Charlie Peters?—A. I don't know the name.

Q. James Miller?—A. I know him.

Q. Jacob Harris?—A. Yes, sir.

Q. John Harris?—A. Yes, sir; I know a John Harris.

Q. Harry Anderson?—A. I don't know him.

Q. And Charlie Gamble?—A. I am not sure about him.

Q. Now, Mr. Waggoner, with reference to those natives whose names have just been read to you and with whom you are acquainted, do you know what they have done in the way of severing their tribal relations? Just answer the question yes or no.—A. Yes; I know some of the boys who have done that.

Q. Now, what have they done in the way of severing their tribal relations?—A. Those that I know have homes of their own and have observed the marriage laws of the United States and are attempting to lead a civilized life.

Q. The question is, do they observe any tribal relations?—A. Not that I know of, unless it should be an inheritance law. I do not know some of these intimately, because they have not been all the time in Juneau since I have been here. The natives are in and out here more than in any other village in southeastern Alaska.

Q. Do they obey any chief?—A. They do not.

Q. Have they any chief?—A. They have not.

Q. Have they any tribal house?—A. They have not.

Q. Have they any form of tribal government whatsoever?—A. They have not that I know of.

Q. You would know it, wouldn't you, if they had?—A. I think I would.

Q. Now, what have these natives done in the way of adopting the habits of civilized life? Have they adopted the habits of civilized life?—A. They observe the marriage laws, they are building themselves little homes, and they are raising their families and educating them in the schools here.

Q. What kind of houses do they live in?—A. These natives live in houses of medium size, furnished like the furnishings of an ordinary workingman's home; they have stoves, chairs, tables, etc.

Q. How do they make a living?—A. They work as fishermen or miners or day laborers. Some of them are boat builders.

Q. Are any of them skilled workmen?—A. We would say they were. They are not common day laborers. Those that work in the mines are not what we would say "muckers"; they do drilling, and some of them have even taken contracts for drifting in the tunnels.

Q. Do you know the following natives residing on Douglas Island: Jimmie Fox?—A. I do.

Q. William Brady?—A. I do.

Q. Daniel Josephs?—A. I do.

Q. Gilbert Jackson?—A. I don't know him.

Q. John Willis?—A. I don't know him.

Q. Edward Marshall?—A. I do.

Q. Henry Stephens?—A. I do.

Q. John Harris?—A. I am not sure whether this John Harris is the John Harris that lives in Juneau or not.

Q. Now, do you know what these natives have done in the way of severing their tribal relations, whether they observe any tribal relations?—A. I do.

Q. Do they observe any such relations?—A. I don't think they do.

Q. Have they any chief?—A. They have no chief.

Q. There is no chief on Douglas Island?—A. None that I have ever seen; that is, having control of the place.

Q. Do they have any tribal laws that these men obey?—A. I don't know of any.

Q. Do they have any tribal house?—A. They have not.

Q. Is there any tribal government over there at all on Douglas Island?—A. There is not.

Q. And never has been as long as you have been in the country?—A. No, sir; not to my knowledge.

Q. If there had been you would have known it?—A. Within the last five years I would have known it.

Q. Now, what have these men done whose names I have read to you in the way of adopting the habits of civilized life?—A. They live similar to these other men in Juneau. They have their own homes, run their own business, observe the marriage laws, adopted our marriage laws and inheritance laws.

Q. Are their habits of life any different from those of white men under similar circumstances?—A. They are the same as the other residents, the same as the white people living there in the same neighborhood.

Q. Their houses are furnished the same as the homes of white men?—A. Under the same circumstances; yes, sir.

Q. And how do they make a living, Mr. Waggoner?—A. Most of those, I think, are fishing most of the year; some of them part of the year work in the mines at Treadwell.

Q. Are any of them skilled workmen that you know of Mr. Waggoner?—A. I can not say that I know personally that they are skilled workmen for I do not know just what jobs they have been holding in the Treadwell mines.

Q. Now, returning to the natives of Klawock and Hydaburg. Do you know whether there are any skilled workmen or mechanics among them?—A. I do.

Q. What would you say as to that, Mr. Waggoner, referring to those first of Klawock?—A. Well, there are men there among that list who are boat builders and build boats of exceptional value and men are employed to run the boats of the canneries, both as engineers and captains.

Q. And do they have men of that type at Hydaburg also?—A. They do. They are also carpenters—house carpenters—among them who draw good wages.

Q. Referring now to the natives of Klawock. What if anything, have some of these natives done in the way of acquiring military education, that you know of? Do any of them hold any position with the United States Government, do they hold any commission under the Government?—A. I do not know whether they hold commissions among these people at Klawock but they have been in the service of the country both in the Navy and Army. One of the Klawock boys is still in France.

Q. He is still in France?—A. Yes, sir.

Q. Now with reference to Hydaburg, what do you know about that?—A. I don't recall any of the boys at Hydaburg who are in the service. There may be, but I don't know.

Q. Wasn't one of those natives a commissioned officer in the United States Army some three years ago?—A. Not that I recall now.

Q. Wasn't his name Taylor?—A. He is not a Klawock boy; he is from Wrangell.

Q. He belongs to that same class of natives, however?—A. His people came from Klawock.

Q. His people came from Klawock?—A. Yes, sir; but he has never lived in Klawock to my knowledge.

Q. His people came from Klawock, but moved to Wrangell?—A. Yes, sir.

Q. He was a commissioned officer, wasn't he?



Mr. RUSTGARD. Object to that as immaterial. He is not one of the voters and we admit he took up his residence separate and apart from the tribe if he is in France.

Q. Do you know Charley Cutter?—A. Yes, sir.

Mr. RUSTGARD. I object to that because he is not one of the voters.

Q. Where is he from?—A. He was born, I think he was born in Juneau. His mother was from Klawock.

Q. He belongs to these Klawock Indians?—A. Yes, sir.

Q. What, if any, service did he perform for the Government during the late war?

Mr. RUSTGARD. Object to that as immaterial because he is not one of the voters complained of nor is he a resident of that reservation.

Mr. HELLENTHAL. We are offering this testimony because this man belonged to the same tribe of Indians originally, and originally lived in the same community and was raised under the same conditions under which the others were brought up.

A. Mr. Cutter's name appeared in the Dalles News of May, 1917. I can not give the exact date of the month. I saw his picture where he was recruiting for the United States Government in one of the streets in New York City, I think Park Row. I also saw his picture again which was the same as that in the Dalles News, in the Popular Mechanics of June, 1917. He goes there by the name of Chief Eagle Horse, which is the name he took as his stage name.

Q. He was engaged in recruiting in New York City?—A. He was soliciting men there on the street or in the park, getting men for enlistment.

Q. Instructing the inhabitants of the most popular city of the United States with reference to their duties as citizens?—A. I suppose we will have to admit it is the most popular city.

Q. I hand you a copy of a newspaper. State whether you are familiar with that paper. [Hands paper to witness.]—A. I have seen this before—copies of it.

Q. Where is that published?—A. Purported to be published in Hydaburg.

Q. Is that published by the natives there?—A. Well, I do not know from personal knowledge, but I have reason to believe that it is.

Q. That publication was started since you left Hydaburg and Klawock, then?—A. Yes, sir.

Q. Do you know the names of the natives whose names appear in the editorial line there?—A. Nearly all of them.

Q. Are any of them whites?—A. The consulting teacher is all that I know to be white.

Q. The rest are all natives?—A. The rest are all natives; yes, sir.

Mr. HELLENTHAL. We offer this paper in evidence as an exhibit, and ask to have it marked "Exhibit No. 3" and made a part of this deposition.

(Paper marked "Contestee's Exhibit No. 3 by the notary and made a part of this deposition.)

Mr. HELLENTHAL. That is all.

Cross-examination by Mr. RUSTGARD:

Q. Mr. Waggoner, as the Presbyterian minister, you have been interested in advancing the civilization of these natives?—A. I have.

Q. And in that respect you are working in cooperation with the United States Bureau of Education?—A. I am.

Q. You have kept yourself informed since you came to Alaska on the laws of the United States touching the education and advancement of the natives?—A. As far as I am able.

Q. Now, you understand that originally by the act of May 17, 1884, what has been referred to frequently as the organic act creating civil government for Alaska, it was provided "that the Secretary of the Interior shall make the needful and proper provisions for the education of the children of school age in the Territory of Alaska, without reference to race, until such time as permanent provision shall be made for the same," and then at that time an appropriation was made for that purpose—an appropriation was made annually by Congress after that until the laws were changed?—A. That is my understanding of it.

Q. Now, you are also familiar with the law known as the Nelson Act?—A. A little.

Q. This is an act of January 27, 1905, providing for the maintenance of schools for white children and children of mixed blood in the various settlements of Alaska?—A. Outside of incorporated towns; yes, sir.

Q. Now, under that so-called Nelson Act, the people of the various school districts elect their own school trustees?—A. Yes, sir.

Q. That is correct, isn't it?—A. Yes, sir.

Q. That is, the electors elect three trustees to take charge of the schools?—A. Who act as a school board; yes, sir.

Q. And they choose the teacher?—A. That is the way I understand it.

Q. Now, then, you have had no such school under the Nelson Act either at Klawock or Hydaberg have you?—A. No, sir.

Q. Now, the school at each of those places is maintained by the Bureau of Education?—A. Yes, sir.

Q. And it is maintained by funds provided by Congress from time to time for that purpose?—A. Yes, sir.

Q. Now, those schools maintained at Klawock and Hydaburg are maintained under that provision of the Nelson Act which reads as follows: "The education of the Eskimos and Indians in the district of Alaska shall remain under the direction and control of the Secretary of the Interior," and to be supported by annual appropriations of Congress?—A. Yes, sir.

Q. Now, it is under that provision that the schools at those two places are maintained, and it is under that provision that the school is maintained in Auk Village in Juneau?—A. Yes, sir.

Q. And also it is under the same provision that the school is maintained in Indian Town in Douglas?—A. Yes, sir.

Q. Now, you are familiar with the proclamation of the President, setting aside the Klawock and the Hydah Reservations? You have read those proclamations?—A. I have seen them.

Q. And you are familiar with the endeavor on the part of the Bureau of Education to have those proclamations issued?—A. I am.

Q. And you cooperated with the officers of the Bureau of Education to that end?—A. In connection with the Klawock Reservation. The other was done purely through the representatives in Hydaburg.

Q. The Hydaburg Reservation, was that set aside after you came to Juneau?—A. Oh, no.

Q. Before you came. But you were in Klawock at that time?—A. I had direct interest in the Klawock Reservation, but not in the Hydah Reservation, because the Bureau of Education had a male representative at Hydaburg, but not a male representative in Klawock.

Q. At that time the Bureau of Education had no representative at Klawock?—A. No male representative.

Q. So that in that transaction you represented the Bureau of Education?—A. Yes, sir.

Q. Now what was the purpose of creating that reservation at Klawock?—A. The purpose was to give the natives a chance for development which they were prevented by the encroachment of whites over which we had no authority. We had tried in the courts, the commissioner's courts to keep certain elements under control; drunkenness, preventing booze from coming there, certain white men came there and living without marriage in the village and were getting control of native property through hook and crook and bringing all the evil influences there that we, as teachers and missionaries were trying to overcome, and at that particular time there was a plan on foot to establish a store that would prevent any native almost from trying to do business in the village. And it was for these immediate reasons that we asked the Secretary of the Interior, through the Bureau of Education, to do something for us.

Q. Now, then, briefly stated, the purpose and object of that reservation was to give the missionaries, through the Bureau of Education, or the Bureau of Education through the aid of the missionaries, an opportunity to keep white people away from it?—A. I didn't so state it. It was to help the people themselves to keep the white people out, for we had, in all those 18 years, planned to let the people have control of that village.

Q. To let the Indians have control?—A. Yes, sir; the Indians.

Q. Until you got this Indian town law of 1915 enacted by the legislature, chapter 11, Session Laws of 1915, did you have any means of giving the natives an opportunity to keep the white people away from there?—A. No legal means. For that reason I was one of the ones to go before the committee of the house here to get that law made. We had no legal means. We had an organization but really no legal means.

Q. Now, then, that law, chapter 11 of the Session Laws of Alaska, for 1915, that law you are familiar with?—A. Yes, sir.

Q. That was enacted at the instance and request or suggestion of the Bureau of Education and the missionaries to give the Indians an opportunity to form some government of their own, in order to control the inhabitants on the reservation?—A. The missionaries, the Bureau of Education, and the Indians united in that effort. Of course the missionaries and the Bureau of Education had more access to the committee of the House which brought this bill about.

Q. And that was for the purpose of giving the Indians themselves legal means for controlling their own settlements which the other laws did not afford them?—A. Yes, sir.

Q. Now at the time that that law was enacted it was not the intent to give the Indians any jurisdiction over the white people in those towns?—A. There has been a dispute on that matter. It seems in the first place that the council would be elected and would have jurisdiction over all who lived in that town but I understand that people came there afterwards and the House of 1917 tried to adjust that because of the objection of the whites living on certain town sites.

Q. You now refer to the amendment to the law of 1915 by chapter 25 of the Laws of the Territory of Alaska for 1917?—A. Yes, sir.

Q. In that amendment it was specifically provided that this native town council created by the former act should have no jurisdiction over the property of the white residents residing within the corporate limits of the native village. That is the amendment you have reference to?—A. Yes, sir.

Q. I notice that in describing the qualifications of the electors in these native villages under the act of 1915 of the Territory of Alaska, it is provided that the qualification of an elector under that law shall be as follows, namely, he or she shall be a member, or descendant of members, of the Tlinget, Tsimpsean, or Hydah people, or people belonging to other Alaska Indian tribes. You remember those qualifications of the electors in those villages?—A. I remember that now; yes, sir.

Q. Now the intention was to make it a purely native town and native government and exclude the white people from participating in the government of this town?—A. That, I think, was the general idea of the law.

Q. You have addressed yourself to the situation at Klawock. To the best of your knowledge the situation at Hydaburg is approximately the same?—A. The same; yes, sir.

Q. They are conducting their town under the same law of the Territory of Alaska in acting for the natives?—A. Yes, sir.

Q. Now, in the creation of the Hydaburg or Hydah reservation, the Bureau of Education took the principal part or leading part?—A. Yes, sir.

Q. In fact the reservation was created at the instance of the local agent of the Bureau of Education?—A. At the requests, of course, of the people, which requests had been going on for several years. The Bureau of Education came in to assist these people at their request and through the Bureau of Education the move was made from Klinquan and Howkan to Hydaburg. Also a few people came from Kasaan.

Q. The object and purpose of the Hyda reservation was also to give the natives an opportunity to keep the white people out?—A. Not primarily. It was to give the people a chance to develop.

Q. Well, they did keep the white people away?—A. There are white people there.

Q. Are there any white people there excepting those who have intermarried with the native families?—A. I think there is one man lived there awhile before he was married. He afterwards married into a native family.

Q. Was he there before the reservation was created?—A. No, sir.

Q. He moved there after the reservation was created?—A. Afterwards; yes, sir.

Q. What was his business?—A. I believe a cook or a baker, something like that. He started a restaurant there.

Q. He was there with the permission of the natives?—A. With permission from the town council as I understand it.

Q. This town council undertook to regulate who would be permitted to enter on the reservations?—A. I think the town council regulated any infringement on the rights of the people. I haven't seen any white man who was not permitted to remain on either of those reservations if he was a desirable citizen.

Q. Now, do you know how many white people live at Hydaburg?—A. I think there are two besides those directly connected with the Bureau of Education.

Q. One or two?—A. I think there are two. I don't know whether the second man lives there now or not.

Q. Those two are married to Indian women?—A. Yes, sir.

Q. The Bureau of Education maintains quite an establishment at Hyda-burg?—A. They do.

Q. A large school?—A. There is a large school erected; yes, sir.

Q. And who represents the Bureau of Education there at Hydaburg?—A. I think it is a man named Hansom?

Q. How long has he been there?—A. I believe this is his second year.

Q. He is assisting the Hydaburg people in conducting their business such as the store and other enterprises?—A. He is.

Q. And the Bureau of Education makes a specialty of assisting those natives in starting business enterprises of their own?—A. In every way possible.

Q. In other words, they give them a practical education, and the starting of the store and sawmill and things of that kind is a part of the educational system?—A. Certainly.

Q. The same in substance and effect is true at Klawock?—A. Yes, sir.

Q. The representative of the Bureau of Education at that place is supervising, aiding, assisting, and advising the native council there how to run the town and how to do business?—A. They are, more especially how to do business. The council does its business without asking advice, as has been done frequently in these villages, when they have taken up several cases without the advice of any white men.

Q. The officers of the Bureau of Education, then, devote themselves chiefly to educating these natives in how to do business and carry on enterprises?—A. The same things as our educational system intends to foster throughout the country.

Q. What I mean is that in running a store, for instance, the school-teachers take an interest in it and show the natives how to do it.—A. The principal of the school acts as bookkeeper and general adviser to the board of directors and the man who is the manager of the enterprise.

Q. Of the trading company?—A. Yes, sir. I believe in both instances the principal of the school is one of the directors.

Q. In the trading corporation?—A. Yes, sir.

Q. Well, I will ask you another question or two on the same subject, Mr. Waggoner. Suppose, now, a number of white people came there and insisted upon staying on these reservations, what would happen?—A. I don't know.

Q. Supposing the natives didn't want them there; supposing the Bureau of Education didn't want these white people there?—A. I don't know for what purpose they would go there.

Q. Would they let them stay there?—A. I think they would let them stay there if they were good citizens.

Q. If they were desirable people?—A. If they were desirable people I think they would.

Q. And if they should happen to be undesirable then they would put them off, wouldn't they?—A. Well, there is an instance when I visited Klawock, there was an undesirable man came there and created a disturbance and the officers went out to arrest him and they brought him before the town council and he was fined and he paid his fine with the understanding he was going to depart and not come back and I understood he never did come back. They gave him his fine and made it less if he would not come back. I don't know what the process of law would be in the case at all.

Q. Now you stated that most of those men whose names were read to you could not read and write and converse in English. To what extent can they converse in English?—A. Most of those men can converse on any ordinary thing, any ordinary conversation. But anything that was technical or what we would say would be out of the ordinary daily life, it would be difficult, probably, to get them to understand thoroughly.

Q. Now, anything that touches the work which they are used to, their employment which they are used to, they can converse about that?—A. Yes, sir; very well.

Q. But now as witnesses in court they practically always ask for an interpreter do they not?—A. They ask for an interpreter many times when it is not necessary. It is simply a racial trait. Some need an interpreter and some don't need any interpreter at all who will ask for one. It is an Indian trait, they don't like to tell you openly what they have in their mind.

Q. To what extent can these people read?—A. I would say that the majority of those people would read understandingly up to the sixth grade reading.

Q. To what extent can they write?—A. Not quite as high a grade, some of them higher, but the average would probably be about the fourth grade.

Q. How large a percentage of those Klawock Indians whose names were read to you, could write a letter?—A. Well, I suppose all but two or three could write letters so that I would understand them.

Q. How many of those natives from Auk Village here in Juneau whose names have been read to you could write a letter?—A. Well, I wouldn't say the majority of them, I would say about a fourth of them. I am speaking now of those I know.

Q. Now you state here in answer to some questions asked by counsel that you did not know them by the name he read to you. Now the fact of it is that these natives, especially those here in Juneau, go by different names?—A. I know them by different names.

Q. In addition to the various English names they always have their own native names?—A. Always.

Q. And between themselves they use the native name?—A. If they are talking in their native language but not if they are talking in the English tongue.

Q. But if they talk in the English tongue to each other do they use the English names?—A. They do.

Q. Well, talking among themselves do they use the English language much?—A. From Auk Village you mean?

Q. Yes.—A. Some of them do. The majority of them do not.

Q. How about those in Klawock?—A. The majority of the people there use English in ordinary conversation for the reason that with their progress and new ideas they can not express themselves in the Indian tongue; they have to speak English to keep up with the ideas they have. I saw two natives going down the street one day and they were talking in the Indian tongue and they got so far and then they had to talk English to finish out their conversation, in order to express themselves.

Q. The technical names of appliances in their business are all English, of course?—A. In their general work; yes, sir; although some of them have both Indian and English names.

Q. Now, both at Klawock and at Hydaburg the natives make their living chiefly by fishing?—A. Chiefly; yes, sir.

Q. And that has been their vocation from times immemorial?—A. That and trapping.

Q. Fishing and trapping is what the race has made its living at for times when the memory of man runneth not to the contrary; that is correct, is it? They have also been boat builders?—A. Boat builders and canoe builders and house builders.

Q. There are plenty of fish and plenty of water and plenty of timber where they live?—A. Yes, sir.

Q. And always have been?—A. Yes, sir; those are the natural resources of that part of the country.

Q. The only business they knew anything about until the advent of the white men was mining?—A. They knew something about gathering up what we call placer copper and things like that. I have seen copper shields that the people have made from nuggets they brought from the Copper River country. They knew something about that, but what we call mining they didn't know about.

Q. Now, you stated something about these natives here at Auk Village having abandoned their tribal customs. Do they not have Pot Latches from time to time?—A. Not these men whose names were read. There are some here who have had; there is one family in Auk Village who had a feast or Pot Latch within the last five years.

Q. Do you remember there was quite a stir about a Pot Latch at Ground Hog Bay last spring sometime?—A. Yes, sir.

Q. Now, there was evidence indicating at that time that pretty near all the Auk Village was going out there?—A. Yes; there was evidence, a rumor at least.

Q. And steps were taken to put a stop to that by whom?—A. The principal influence was the governor. Of course, in our own church we spoke about the matter and only one of our people went.

Q. You having sought to discourage those things?—A. I have.

Q. What was the occasion for that Potlatch at Ground Hog Bay last spring?—A. Well, a certain Hoonah man wanted to make himself high man



and the potlatch is not only for elevation of the natives, but the time for paying off debts and the only woman of our people who went there said, "I have got to go this time in order to get my money back," and she got it back. This was their banking system, their old banking system.

Q. There was a lot of them there. Haven't you any idea how many Indians went to Ground Hog Bay that time?—A. I don't know exactly how many did go, but I have been informed through hearing different conversations that not nearly as many went as were expected.

Q. That might be due to the fact that the governor took a vigorous hand in discouraging it?—A. I think all the natives looking toward the elevation of the natives had something to do with discouraging it. Both the natives and the missionaries at Hydaburg and the bureau of education there, and the Haines people as well, said that it was contrary to American citizenship.

Q. Now, you also spoke about the service in the Army of Klawock natives. How many Klawock natives went to the Army?—A. I can not tell you definitely. I recollect now this one man is still in France.

Q. What time did he go into the Army?—A. I think he went in in 1917. He was at school at the time.

Q. Where?—A. At Chemawa.

Q. Is that in Washington?—A. No; in Oregon.

Q. And he went from that school in Oregon into the service?—A. Yes, sir; and he is still in the service.

Q. You don't know of any others?—A. I don't recall them now. The missionary from Klawock reported four in the service, but I don't remember the names.

Q. There is no tax levied on these Klawock natives except such as they levy on themselves?—A. I understand some of them are expecting to pay poll tax, this new \$5 tax we are paying for the school tax.

Q. You don't know whether they have paid it or not?—A. I don't know, but I know all those who have citizenship papers have been expecting to pay it.

Q. You have also been encouraging the natives to seek their citizenship under the Territorial law as soon as they become qualified?—A. Yes; I have been asking them, urging them to get proof of their citizenship as soon as possible.

Q. Now, I will ask you another question. Some of them have made application and failed?—A. I don't know of anybody that failed.

Q. Do you know who owns the land at Auk Village in this city? Has any patent been given by the Government?—A. I understand that only one parcel of land that runs through the village has a patent to it and that is owned by a white man.

Q. That is a strip that was included in a patent acquired by the electric-light company?—A. No. Mr. Whittier has the lot above and in buying the land he got the land clear down to tide water and which takes in property through Auk Village so-called. I understand he has a patent.

Q. The rest of Auk Village there is no patent to?—A. Not that I know of.

Q. It is Government land?—A. Not that I know of. I mean by that, Mr. Rustgard, what is in the plat as termed "Auk Village" some of the natives living in Auk Village are in the Juneau town site and have their patent.

Q. Mr. Waggoner, you understand that the natives hold their possession under the provisions, originally a part of the law of May 17, 1884, providing that Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any land now actually in their use or occupation?

Mr. HELLENTHAL. I don't think that act is quoted correctly. It says "Indians or others."

Mr. RUSTGARD. I am reading now from the act of June 6, 1900, 31 Statutes at Large, page 330.

Q. That is your understanding of it?—A. Yes, sir. Applications have been made for different tracts by our board for patents under that section.

Q. By the missionaries here?—A. Yes, sir.

Q. And it provides that Indians, too, shall be left undisturbed?—A. Some of them have made application for land under that provision too.

Q. You mean Indians?—A. Yes sir.

Q. You mean Indian allotments under the homestead act?—A. No. Mr. Kunz had a piece of ground up at Eagle River that has been in possession of their family for some years and he has applied for a patent under this section, and it has been going through the Forestry Reserve officials.

Q. And don't you think he applied for that as a homestead under the native survey bill?—A. I don't think so. That was before that Indian survey went through. He applied for that about five years ago.

Q. Has he received a patent on it?—A. He has not. But he has applied for one and I understand the Forestry office is surveying it for him for a patent.

Q. At Eagle River. That is about 25 miles from here?—A. Something like that.

Q. There is a house down in the Auk village that is called "Kow-ee"?—Yes, sir.

Q. What kind of a house is that?—A. I call that a communal house.

Q. Who owns it?—A. Kow-ee.

Q. Who is he?—A. He is at the head of that clan.

Q. And he still lives there?—A. He still lives there.

Q. And all the natives belonging to that clan have a right to frequent the house?—A. I don't know what their laws are in regard to the house, but I found several families in there at one time.

Q. That is what they call a communal house?—A. I call that a communal house.

Q. Somebody testified that the last chief died in 1899. Did he refer to the chief in Juneau?—A. I don't know who had control as chief in this town.

Q. They had a celebration about a year ago here. Somebody died down here who was a chief. Don't you remember? Wasn't he a relative of Willard, and they fired off cannon and saluted down at the grave?—A. I don't think Yakwan was recognized as a chief in Juneau.

Q. But he was a man of some authority?—A. He was a man of some influence, not particularly "authority." I have known that his relatives respected him and he was a man that was also highly respected by all people throughout the country.

Q. That was by his birthright?—A. No; by his character. He was a man who had been connected with the whites and the natives especially since that interior rush in 1897 and 1898. He used to be one of the packers and one of the guides through all the interior country.

Q. That was the occasion for the celebration at that time?—A. Yes, sir. He had these things. This cannon and other things they told me he had descended to him and he had this cannon shot off as the closing incident; he had no more use for this thing. He said, "We are now living a civilized life, this is to be the last."

Q. That was the last salute?—A. That was the last salute.

Q. That was Yakwan himself said that?—A. That was his request to his sister and I understand most of the things he had were buried with him so they wouldn't be handed down to his descendants. I think the cannon was to go to the Sitka museum or some place.

Q. How long ago was that?—A. I think about a year ago; something like that.

Q. Do you remember whether that was before or after the last general election?—A. I think it was before.

Q. How long before?—A. I could not give you the exact date.

Q. It was close to the last general election, the election of November 5, 1918?—A. It must have been.

Q. (By Mr. MARSHALL.) Do you know whether any of these people living in Auk Village whose names have been mentioned to you went out to Ground Hog Bay to this potlatch of Charlie Moses?—A. I don't know whether they went or not; I don't know whether any of them went. If they did I don't know it. These natives here at Juneau do not live here continuously. They may go and be gone four or five years before they come back. We haven't the employment for them here in Juneau. They go in the meanwhile off and hunt and trap and fish out in the cannery districts. One man was gone three years before he came back.

Mr. MARSHALL. That is all.

Redirect examination by Mr. HELLENTHAL:

Q. What are these potlatches, Mr. Waggoner? They bear a marked similarity to what we call "market day" back East, do they not?—A. I wouldn't say so.

Q. They are like a State fair?—A. I wouldn't say so.

Q. Is there any real difference between a potlatch among the Indians and a party at the governor's house in Juneau?—A. Quite a marked difference.

Q. What is the difference?—A. I don't know as I would want to say the way the governor conducts his parties.

Q. What you object to is to cast any reflections upon the way the Indian conducts the potlatch?—A. No; I mean the governor. In the Indian potlatch there frequently is an Indian significance.

Mr. GRIGSBY. And there is nothing like that at the governor's parties?

Q. The potlatch, however, has no political significance has it, Mr. Waggoner?—A. You mean a Federal political significance, or native?

Q. Native political significance?—A. Frequently it has an Indian political significance because during these potlatches young men are raised in rank.

Q. It is a sort of a convention, then, also, as well as a potlatch?—A. The English terms for those things are not apt. You could not call it a convention as we call a convention. Of course, it is a coming together, that is the literal meaning of a convention.

Q. You know that they have a potlatch in the city of Seattle every year, don't you?—A. They call it a potlatch.

Q. The native potlatch is of a higher order?—A. Yes, much higher.

Q. Now, these natives whose names have been read to you as living in Auk Village, those who voted. Do they have any connection with that community house down at Auk Village?—A. I don't know of any but the one man, he might have. He is married to the daughter of Kow-ec. But I don't know whether he has any connection with it at all or not.

Q. The others have nothing to do with it?—A. No, the others have nothing to do with it.

Q. And the community house concerning which you testified is simply a house that belongs to a family?—A. It is a family house. It is not the old-style house, as you call it. I call it a communal house because of the manner in which they live in it.

Q. It is not a tribal house in the sense tribal houses used to be maintained by the Indians?—A. Not according to my understanding.

Q. And the natives whose names have been read to you they have nothing to do with it?—A. No, sir.

Q. Now, speaking of that movement at Klawock and Hydaburg which led to the reservations of those lands, you said that originated with the people. What people do you refer to?—A. The inhabitants of the villages.

Q. That is to say the native inhabitants?—A. Yes, sir.

Q. They originated the idea?—A. Of the reservation?

Q. Yes.—A. Yes, entirely. The matter grew out of conferences formally and informally, between certain Indian villages and the representatives of the Bureau of Education and myself at different times. There was really no formal meeting in regard to the matter.

Q. And what was the underlying purpose of establishing those settlements?—A. To foster enterprises among the people and to help them to save and to get them living in better conditions.

Q. Did the abandonment of tribal relations have anything to do with it?—A. No, sir. Klawock was not a town controlled by any tribe. It was simply a place where the fishermen gathered to work in the cannery. Klawock is the oldest cannery town in Alaska. Commercial houses had nothing to do with it. There were none there.

Q. There is nothing to prevent a white man from going there at any time he desires, is there?—A. Not that I know of.

Q. He doesn't have to have permission from anyone to go to Hydaburg or Klawock, does he?—A. Not that I know of.

Q. And there is nothing to prevent outside Indians from going or coming?—A. Not that I know of.

Q. And there is nothing to prevent Indians residing there from going away and coming back when they desire?—A. Not that I know of.

Q. The only method in which undesirable whites are controlled there is by the method you have mentioned—that is to say, by what is called in Juneau and Douglas and other towns the system of blue ticketing.—A. That is, through the acts of the town council. Under this Indian act the town council always has to sit as a jury and listen to the evidence.

Q. And they blue-ticket a man just as they do in Juneau if they are not desirable?—A. What you call "blue-ticketing," I am not familiar with that process.

Q. If an undesirable man should go there, they would fine him and tell him they would give him a smaller fine if he would get out of town, isn't that the

system?—A. No. If he commits a crime or a misdemeanor, then they have a trial and fine him. They don't assess a fine upon a man for simply being there.

Q. The only way they deal with undesirables is after he commits some offense? Until he commits some offense he is not considered an undesirable, is that a fact?—A. That is a fact; yes, sir.

Q. And he is not interfered with?—A. He is not interfered with. I have never seen men interfered with in Klawock except this man I spoke of who came there drunk and who was committing misdemeanors in this town.

Mr. HELLENTHAL. That is all.

Recross-examination by Mr. RUSTGARD:

Q. And this law was for the purpose of giving the natives a chance of keeping others out of there if they wanted to?—A. And for development.

Q. And to give the Government of the United States through the Department of the Interior full control?—A. I wouldn't say so. They understood from this application that the natives themselves would have something to say in the control of the village. Now, I speak that way from the conferences, the report of which came to me, between the Secretary of the Interior, the head of the Indian Affairs at Washington, and Mr. Lopp, and there were one or two other men, I don't remember their names now, and Bishop Rowe was there at this conference at Washington, and they were talking about the Indian reservations in Alaska at that time. We didn't want Indian reservations in Alaska because of the kind of Indian reservations they had in the States and their unsuccess and when these reservation were established by us it was with that understanding by us and by those who were in authority that we would not have Indian reservation like the Indian reservations in the States. We never applied for Indian reservations as in the States. But our request grew out of the report of that conference.

Q. The difference is you are not under an Indian agent; is that it?—A. The Secretary of the Interior doesn't exercise any control with the agent, but with the people themselves. The ground was given them for their use, with the right to form a municipal government, which this law advocates, and to control their affairs; that is my understanding.

Mr. HELLENTHAL. The purpose was to reserve the ground for the use of the Indians and nothing more?

A. That was the purpose of those who made the request.

Mr. WICKERSHAM. Isn't that the purpose in all reservations?

A. I don't know what the purposes are in the States or how the requests come.

Mr. HELLENTHAL. I would like to recall Mr. Waggoner for another question.

Q. Mr. Waggoner, who owns the church building at Klawock?—A. The congregation at Klawock.

Q. Who built it?—A. The congregation and myself.

Q. Did the board of home mission have anything to do with the building of the church?—A. It did not.

Mr. HELLENTHAL. That is all.

DAVID WAGGONER.

Whereupon the further taking of testimony was adjourned until 3 o'clock p. m. of this day.

Now, at 3 o'clock p. m. of this, the 1st day of October, 1919, all persons being present, the following testimony was taken pursuant to adjournment:

DEPOSITION OF CHARLES W. HAWKESWORTH.

CHARLES W. HAWKESWORTH, a witness produced for and on behalf of the contestee, being duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. HELLENTHAL:

Q. What is your name?—A. Charles W. Hawkesworth.

Q. Where do you reside?—A. Juneau, Alaska.

Q. What is your business, trade, or occupation?—A. Superintendent of the native schools in southeastern Alaska.

Q. For the Bureau of Education?—A. Yes, sir.

Q. As such, have you charge of the schools at Hydaburg and Klawock?—A. Yes, sir.

Q. And the native schools at Juneau and Douglas?—A. Yes, sir.

Q. Do you know the natives at Hydaburg and Klawock?—A. Very well at Hydaburg and fairly well at Klawock.

Q. Are you also acquainted with the natives at Juneau and Douglas?—A. Somewhat.

Q. You have heard read the list of names of natives residing at Klawock to the witness Waggoner this morning?—A. Yes, sir.

Q. Are you acquainted with all those natives?—A. Yes, sir.

Q. Do you know what, if anything, those natives have done in the way of severing their tribal relations and adopting the habits of civilized life?

Mr. RUSTGARD. Object to that line of evidence, for the reason that it is conceded that those Indians live on a reservation set aside for their benefit and that they live under the care and under the jurisdiction of the United States Bureau of Education.

Mr. HELLENTHAL. That there may be no misunderstanding about this matter I will state at this time that it is not conceded that the Indians live on a reservation or that they are under the care or supervision of the Bureau of Education, but it is contended, on the contrary, that the Indians are in no wise restricted by governmental authority and that the reservation they live on goes no further than to withdraw from entry the public land upon which they reside in order that the same might be occupied by Indians who express their desire to do so. The Government exercises no control or jurisdiction over the Indians other than that which is exercised over other citizens in the Territory of Alaska.

A. Yes, sir.

Q. Now, just one other preliminary question: How long have you been familiar with the conditions under which the natives at Hydaburg and Klawock live?—A. Since the summer of 1911.

Q. And you have known these various parties since that time?—A. Yes, sir.

Q. Now, what, if anything, have the natives of Klawock done in the way of recognizing tribal government since you have known them?—A. Nothing.

Q. Has there been any tribal government of any kind at Klawock since 1911?—A. None at all.

Q. What, if anything, do the natives at Klawock now do, or what have they done since you have known them, in the way of recognizing tribal relations?—A. There is nothing in recognition of tribal relations.

Q. And there has not been anything of that kind since you have been acquainted with the natives there?—A. No, sir.

Q. Now, what, if anything, have the natives at Klawock done in the way of adopting the habits of civilized life?—A. Just the same as is common in other communities in Alaska, living as citizens, carrying on industries.

Q. When you say other communities in Alaska, do you mean other natives or whites?—A. I am thinking of Craig, a neighboring town, 6 miles away from Klawock. Practically the same kind of life goes on at Klawock as at Craig.

Q. And who do they have at Craig?—A. Natives and white people.

Q. Now, what habits have the natives at Klawock adopted with reference to the habits of white men? How do the habits they have adopted compare with the habits of the white men?—A. Just the same.

Q. What kind of houses do they live in?—A. Regular frame houses, like they have in the neighboring town of Craig.

Q. When you say like they have in the neighboring town of Craig, do you refer to the homes of white people in Craig or those of the natives there?—A. The homes of white people and the Indians there in Craig; they live the same way.

Q. Now, do you know what, if anything, the natives whose names have been read to Mr. Waggoner have done in the way of educating themselves?—A. Just the regular school work that they have gone on with as other men do.

Q. When you say "other men," do you mean whites or natives?—A. Both, who are progressive.

Q. Are those natives whose names have been read able to read and write the English language?—A. Yes, sir; as far as I know, they are.

Q. At the present you think all of them can read and write English?—A. I think they can. I have no reason to doubt it.

Q. Do they all speak English?—A. Yes, sir; they most all have mail boxes there at the post office at Klawock and get their mail.

Q. They write and receive letters just as white men do?—A. The same way.



Q. What is the condition at Hydaburg with reference to the matters concerning which I have interrogated you as existing at Klawock?—A. Just about the same. If anything, a little more marked progress has been made there. More newspapers and magazines are subscribed for there.

Q. Are newspapers and magazines subscribed for at Klawock?—A. Yes, sir.

Q. To quite a considerable number?—A. To quite an extent.

Q. By the natives?—A. By the natives; yes, sir.

Q. And at Hydaburg, that is even more so?—A. Yes, sir. At both of these places they have the weekly Seattle papers for sale there in the town, both at Klawock and Hydaburg.

Q. Are those papers generally read by the natives?—A. Oh, yes.

Q. What do you say as to whether they keep posted on current events?—A. They do keep posted.

Q. And they kept posted on the war as it progressed?—A. Very much so.

Q. Did you discuss the war with any of them at any time?—A. Yes, sir; whenever I went there.

Q. Did they seem to have enlightened opinions upon the questions involved?—A. Yes, sir; they did.

Q. And understood the issues as well as the whites?—A. Yes, sir; even more interest it seemed; they seemed to show more interest in the war than some of the men down there at Craig.

Q. They showed more interest than the whites at Craig?—A. So it seemed to me with the ones I talked with.

Q. And were they equally as well informed?—A. They seemed to be.

Q. Did you have frequent occasion to go to Hydaburg and Craig during the past few years?—A. Yes, sir; my work as superintendent of schools takes me there right along and I usually stay a week or so at each of those towns.

Q. Now, with reference to the natives residing at Juneau. You have heard read the list of Juneau natives to Mr. Waggoner that was reported to have voted at Juneau?—A. Yes, sir.

Q. Do you know those natives?—A. Most of them I know.

Q. Are you familiar with their mode of life?—A. Yes, sir.

Q. And the manner in which they regulate their affairs?—A. Yes, sir.

Q. You also have charge of the school situated at Juneau, the native school?—A. I do.

Q. How long have you been acquainted with the Juneau situation?—A. Since the summer of 1916.

Q. Since you have been here have they had any tribal government at Juneau among the natives?—A. None.

Q. Have the natives residing at Juneau recognized any tribal authority?—A. None.

Q. What, if anything, have they done in the way of adopting the habits of civilized life?—A. Well, in an organized way; they started two years ago a civic league in the village to cooperate with the city council of Juneau to enforce law and order in that section.

Q. And what have they done as individuals in the way of abandoning the habits of the "tepee" and taking on the habits of the modern homes?—A. All those things are self-evident. Whatever has been common in the town or Territory they naturally take to it and go with it as a regular course of life.

Q. I know. But you must remember that while these things are self-evident to you, I desire to get this matter in the record. I wish you would explain as fully as you can the mode of life followed by the natives at Juneau as compared with the habits of the civilized white inhabitants.—A. Well, they live in regular individual homes for the most part, have regular furniture, do their cooking in the regular way, have regular occupations, some mining, others fishing, others boat building, and each depends upon his own efforts for his living.

Q. Do they support their families like whites?—A. Just the same.

Q. Treat their families as well?—A. Yes, sir; as far as I can see.

Q. And educate their children?—A. The same way. In the matter of education; why, our native schools take them up as far as the fifth grade and then all those who go beyond that are received into the city schools here in Juneau, the idea being the native school will do the primary work and as soon as they go beyond that the city school continues the education.

Q. Now, those names that have been read to you as having voted in Juneau, in so far as you know them, are they able as a rule to read and write the English language?—A. So far as I know, they are.

Q. Do they speak English?—A. Fairly well.

Q. And do they keep tolerably well informed on current events?—A. Yes, sir; they do.

Q. And speak intelligently about them?—A. Yes, sir.

Q. What is the condition at Douglas? You know the natives there, do you not, also?—A. Yes, sir.

Q. Do those natives there recognize any tribal authority?—A. As far as I know, they never have had any in Douglas.

Q. They never have had any, at least as long as you have been there?—A. Not that I know of.

Q. You would have known it had they had such a thing?—A. Yes, sir.

Q. Do they recognize any kind of tribal relations at Douglas at the present time or for the past number of years?—A. No, sir. There was just that misstatement in the paper last fall about this Jimmie Fox that he was to succeed his uncle, but Jimmie came to the school-teacher the next day and said that that was a mistake; that he didn't want to be any successor to his uncle, so he had an article published in the newspaper saying he was an American citizen and was proud of it, and that he wasn't a successor to his uncle.

Q. There was no chief located at Douglas, then, last fall or any other time since you have been there?—A. No, sir.

Q. And there has never been any chief since you have been here?—A. No, sir.

Q. Now, what have those natives at Douglas done in the way of adopting the habits of civilized life?—A. They live in their own individual homes, furnished as their station in life warrants; they carry on their own family life, support themselves, the same as others in similar circumstances; they labor in the mines, and fish, build boats, have stores——

Q. The natives have a store at Douglas, have they? A. Yes, sir. One man does, Henry Stephens.

Q. A general merchandise store?—A. Yes, sir; a general merchandise store.

Q. Is there any difference between the manner in which these people live and the manner in which white people of similar station in life live?—A. No, sir. There are whites and natives in that beach section of Douglas and you can not tell which is the white man's house and which is the native's; they all look alike.

Q. Either on the inside or the outside?—A. About the same.

Q. What do you say as to their intelligence? Are they able to read and write as a rule; English I mean?—A. Yes, sir.

Q. And speak English?—A. Fairly well.

Q. Do they keep posted on current events?—A. Yes, sir.

Q. And are they able to converse intelligently upon subjects of that character?—A. Yes, sir.

Q. Now, returning to the situation at Klawock and Hydaburg. There has been some testimony here, statements to the effect that the Indians at those points live on reservations. You are familiar with the character of reservations that exist at both Klawock and Hydaburg, are you not?—A. Yes, sir.

Q. Is there any reservation there whatsoever in the sense or meaning of that term as generally used?

Mr. RUSTGARD. I object to that as not the best evidence. The proclamations speak for themselves.

A. I can tell you how that started. The Hydaburg Reservation was made first and when the people left Klinquan and Howkan——

Q. Who do you mean by "people"? The natives?—A. The native people. They wanted a town site where they could make progress, and at Craig at that time the Forestry Service was charging yearly rent for the lands, and the forestry supervisor suggested that they eliminate from the Tongass Natural Forest Reserve this town site of Hydaburg in order that they might get the revenue from taxes to carry on their own town, and that is why the reservations from the Tongass Natural Forest Reserve was made. They don't have any idea at all that it is a reservation such as the Indians have in the States, and if they thought for one moment it was considered as such they would immediately ask that it be eliminated. They don't want a reserve as they understand the reserves in the States are conducted.

Q. And pursuant to that the land was withdrawn in order that they might escape the burdens placed upon them by the forest reserve?—A. Yes, sir; and get the revenue for their local expenses, maintaining sidewalks and up-building the town.

Q. And what is true of Hydaburg in that regard is also true of Klawock?—  
A. That is also true of Klawock; yes, sir.

Q. Does any one under the authority of the United States, or any of its departments, exercise any control or authority over the Indians at either Klawock or Hydaburg?—A. No control. It is up to the elective town council to control the affairs.

Q. And the town council is organized under the laws of the Territory?—  
A. Yes, sir.

Mr. HELLENTHAL. That is all.

Cross-examination by Mr. RUSTGARD.

Q. What is the Territory over which you have jurisdiction, Mr. Hawkesworth?—A. Southeastern Alaska.

Q. The first judicial division of Alaska?—A. Well, it is not exactly that; it goes from Metlakatla to Yakutat.

Q. Now, you are working under who, again?—A. The Bureau of Education.

Q. Well, who is directly over you?—A. W. T. Lopp is chief of the Alaska division and P. P. Claxton is the commissioner of education.

Q. P. P. Claxton is the commissioner of education and as such is head of the Bureau of Education of the Department of the Interior?—A. Yes, sir.

Q. He has full charge of the education of the Indians and Eskimos of Alaska and also the Aleuts?—A. In so far as they choose to attend the native schools of Alaska. Some choose to attend the white schools, and do, at times.

Q. Is it designed by the Bureau of Education to furnish education to anybody but Indians, Aleuts, and Eskimos?—A. Originally the Bureau of Education furnished education to all children in Alaska.

Q. Now, then, what time were the other children, except natives, eliminated from the care of the Bureau of Education?—A. Actually they are not eliminated at all. In places where we have native schools, like in Klawock, the missionary children attend the schools, and if there were other white children there, why, they would attend that school as a matter of course.

Q. Well, how many white children are there at Klawock outside of the missionary's children and the school-teacher's children?—A. No full-blooded whites.

Q. How many white children are there at Hydaburg aside from the missionary's and the school-teacher's children?—A. None.

Q. Now, I understand that Mr. Lopp is in charge of the Alaska division?—  
A. Yes, sir.

Q. Of all Alaska. Mr. Lopp is the superintendent in each judicial division. Is that correct?—A. Well, not each judicial division. Our districts are now divided according to the judicial divisions.

Q. How many districts like your are there in Alaska?—A. I think there are five this year.

Q. Now, which are they?—A. Kotzebue to Point Barrow, Seward Peninsula, western Alaska—

Q. What does western Alaska include?—A. The Aleutian Islands to the mouth of the Kuskokwim. The upper Yukon and southeastern Alaska.

Q. Now, then, western Alaska includes the Aleutian Islands, the Alaska Peninsula, the Cook Inlet country, and the Prince William Sound country?—  
A. Yes, sir.

Q. To Yakutat?—A. Yes, sir.

Q. In other words, that includes the coast district from Kuskokwim River to Yakutat?—A. Yes, sir.

Q. And how far inland does it go?—A. Just along the coast and up the river.

Q. To Copper River?—A. Yes, sir.

Q. Who is in charge of the western Alaska division?—A. Arthur Miller.

Q. Now, his business and your business is to travel around from school district to school district and superintend the work; is that correct?—A. That is right.

Q. Now, then, how many schools have you under your control in this division?—A. Thirteen.

Q. Are they all native schools?—A. So-called.

Q. Aren't they Indian schools, in fact?—A. Why; yes.

Q. They are maintained by the Bureau of Education from funds furnished by Congress for the education of Indians, Eskimos, and Aleuts?—A. Yes, sir.

Q. How many schools has Mr. Miller got under him in western Alaska division?—A. I don't know.

Q. Can you state approximately?—A. No, sir.

Q. He also maintains these Indian schools out of the same funds?—A. Yes, sir.

Q. Furnished or appropriated by Congress for the use of the Bureau of Education in educating Indians, Eskimos, and Aleuts?—A. Yes, sir.

Q. Now, you have a school maintained by the Bureau of Education at Lliamna?—A. I don't know anything about that western district.

Q. Don't you know a little bit about it?—A. Almost nothing, only as I read accounts in the papers from time to time.

Q. You keep fairly well posted on what is doing in the other divisions, don't you?—A. Just fairly well, as we get any newspaper articles; that is all.

Q. You get reports from the Bureau of Education from time to time?—A. Yearly.

Q. Every year. And each school is enumerated there?—A. Yes, sir.

Q. And the places of each school?—A. Yes, sir.

Q. And the names of the teachers?—A. Yes, sir.

Q. And the number of attendance?—A. Yes, sir.

Q. You know, as a matter of fact, that you maintain a school at Lliamna?—A. I know there is a school at Lliamna.

Q. That is maintained by the Bureau of Education?—A. Yes, sir.

Q. And there is no other school there except the one maintained by the Bureau of Education?—A. I wouldn't know that. I wouldn't have any reason to know that.

Q. Now, then, come to Nushagak. You have got a school there, have you not?—A. Yes, sir.

Q. Do you know who the teacher is there?—A. I don't know positively.

Q. Are you sure you have a school there?—A. I am not positive.

Q. Can you mention any place in western Alaska where the Bureau of Education maintains a school?—A. I know more about the northwestern division.

Q. Have you a school at Nushagak?—A. I don't know; I could tell you about Unalakleet if you want information on that.

Q. You maintain a school at Unalakleet?—A. Yes, sir.

Mr. HELLENTHAL. I think I shall object to the witness being interrogated on this, because it is not cross-examination.

Q. Who is at the head of the division of the Seward Peninsula division?

Mr. HELLENTHAL. I object to that as being immaterial and not cross-examination.

A. Mr. Evans.

Q. Who is at the head of the Kotzebue division? Is that a separate division?—A. Yes. Mr. D. W. Cram is at the head of that.

Q. And who is at the head of the Upper Yukon division?—A. Mr. Forbes.

Mr. HELLENTHAL. Same objection.

Q. You know Mr. Miller pretty well, don't you?—A. Yes, sir.

Q. Have you been together with him much?—A. Not much; just as he has passed through Juneau.

Q. Does he frequently go through here?—A. He has been through here twice since I have been in Juneau.

Q. Does he ever go over to Hydaburg?—A. No, sir.

Q. Now, all of you aim to make voters out of these Indians, don't you?—A. To have them progress in the rights and duties and privileges of citizens, knowing that they haven't taken any place in the 52 years that Alaska has been under the United States, and it is time for them to be alive to the conditions.

Q. Well, that is your aim?—A. That is our aim.

Q. And all of these who have been in charge of the education of the Alaska Indians, so far as you know, have been anxious to make voters out of them?

Mr. HELLENTHAL. I object to that because this man is not supposed to know what other people do.

A. We are anxious to have them perform their duties and obligations and have the privileges of citizens.

Q. You are anxious to call their attention to their duty as voters?—A. More as citizens.

Q. In what capacity as citizens especially?—A. For instance, to pay their taxes as they are given out.

Q. Now, are the Indians here in Juneau taxed?—A. City taxes, yes, sir.

Q. Is there any tax paid there in Auk Village in the city of Juneau?—A. I think so.

Q. When did you find that there was a tax paid by the people there at Auk Village?—A. In talking with the former city clerk, Mr. Pettit. He was inquiring about the residences of different ones who had taxes due.

Q. Situated in Auk Village?—A. Situated in Auk village.

Q. Well, that is news. There never has been a tax levied in Auk Village. I will ask you if there was any tax ever levied in the Indian town of Douglas?—A. I don't know.

Q. Is there any tax levied at Hydaburg, except such as is levied by the Indian town council?

Mr. HELLENTHAL. We object to all this testimony because the qualifications of a native as a citizen do not depend upon the question of taxes.

A. In connection with that I would like to say the first territorial tax in 1912, I believe it was, was paid by some thirty-odd residents of Hydaburg.

Q. What tax was that?—A. The territorial tax, \$4 a head. It was afterwards found unconstitutional, I believe, but they paid it, every one of them who was under the age as prescribed.

Q. Under the age as prescribed?—A. Yes, sir.

Q. Between the ages of 21 and 50 years?—A. Yes, sir. And they all did it gladly, too.

Q. Have they ever paid any tax either before or since?—A. They are preparing to pay the school tax already levied by the Territory, and have paid it at the canneries where they have been employed.

Q. The canney superintendent has taken out that much from their wages, is that it?—A. Yes, sir. And those who are not in canneries will pay it personally.

Q. To whom?—A. To whoever will collect it or will send it in to the secretary.

Q. Do you know of anybody who has paid it at Hydaburg?—A. When I was there they told me they were going to pay it.

Q. Now, what is the situation at Klawock? Has any tax been levied there? A. I don't know.

Q. You are talking now about this last summer, are you, or the summer of 1918?—A. I am talking about the first tax of 1912, which they paid, and then the present school tax, which is now up for collection.

Q. That was under the tax provided for by the legislature of 1919 for this Territory, is that it?—A. Yes, sir.

Q. Now, you took considerable interest in the Sulzer election in 1918, didn't you, Mr. Hawkesworth?—A. I took the interest that I would in a friend's campaign.

Q. Now, you were an old friend of Sulzer's?—A. I am.

Q. And have known him for a good many years?—A. Since 1911.

Q. And you lived with him?—A. As a neighbor.

Q. How far is Hydaburg from Sulzer?—A. Twenty-five miles.

Q. And he was about the only white people you could visit with?—A. That is all.

Q. And the same was true of the school-teachers up there at Hydaburg?—A. Yes, sir.

Q. You were all great friends of the Sulzer family?—A. We could not help but be.

Q. And the same was true of Mr. Lopp?—A. Yes; as he passed through Sulzer he would be entertained at their home the same as the rest of us were.

Q. Now, Mr. Claxton was a friend of Sulzer's?—A. I don't know as to the personal friendship they had, if any.

Q. There was a general sympathy between them?—A. I don't know as to that.

Q. And Sulzer was personally acquainted with most of these Indians in that neighborhood?—A. Yes, sir.

Q. And that included the Indians at Klawock?—A. Yes, sir.

Q. He called on the missionaries and teachers from time to time at those reservations?

Mr. HELLENTHAL. I object to this line of questioning, being personally acquainted with the Indians.

Q. Didn't he?—A. Yes; as friends.

Q. And all those teachers were very much interested in Sulzer's election; they wanted to see him elected?



Mr. HELLENTHAL. Objected to as immaterial.

A. I don't know as to that.

Q. You knew Mr. Hibbs was a very enthusiastic supporter of Mr. Sulzer?

Mr. HELLENTHAL. Objected to as immaterial.

A. Yes; I think he was.

Q. And Mr. Hibbs is a very active gentleman in doing everything he considers is right?—A. He is an honest man.

Q. Well, he is very assiduous in the discharge of what he thinks is right?—

A. Well, I think Mr. Hibbs is an honest, upright man and believes in doing what is right, but not in influencing other men.

Q. Well, he was a very enthusiastic supporter of Mr. Sulzer, wasn't he?—

A. Personally; only personally.

Q. And the same you can say of the corps of teachers under him at Klawock?

Mr. HELLENTHAL. Objected to as immaterial.

A. I can not say that.

Q. Wasn't that true of all the missionaries there at Klawock?—A. I don't know.

Q. And Mr. Bromley?—A. I don't know.

Q. Wasn't he a Sulzer supporter?—A. I don't know.

Q. Now, Lopp was a strong Sulzer sympathizer, wasn't he?

Mr. HELLENTHAL. Objected to as immaterial.

A. I can not say as to that.

Q. He traveled together with Sulzer from time to time?

Mr. HELLENTHAL. Objected to as immaterial.

A. Not that I know of.

Q. Wasn't he and Sulzer visitors at Hydaburg occasionally together?—

A. When Hydaburg was first built Mr. Lopp hired Mr. Sulzer's boat, the *Lydia*. Mr. Sulzer, as captain, brought him down to Hydaburg. That is the only time that I know when Sulzer and Lopp were together in Hydaburg.

Q. Didn't Sulzer come over there and make speeches occasionally for the natives?—A. He never came to Hydaburg except when he was United States commissioner he came down to hold court, which he did.

Q. He was United States commissioner at Sulzer and would go down to Hydaburg to hold court?—A. Occasionally.

Q. That was before they organized that Indian town?—A. Yes, sir.

Q. Now, Sulzer was the man who introduced this bill in the legislature permitting the natives to organize this Indian town government?

Mr. HELLENTHAL. Objected to as immaterial.

A. I believe he did.

Q. You know, as a matter of fact, he did?—A. Yes, sir.

Q. He prepared it and introduced it and put it through, isn't that a fact?—

A. I don't know.

Q. He put it through the legislature? He was one of the most enthusiastic supporters of that bill, wasn't he?—A. I wasn't here at the time.

Q. No part of the time?—A. No; not in Juneau.

Q. Well, you talked with him at other places about that bill, didn't you?

Mr. HELLENTHAL. Objected to as immaterial.

Q. You talked with him about this bill permitting the Indians to organize some town government of their own?—A. No; I don't remember of having any talk with him on that.

Q. You never talked with him about that?—A. Not that I recall.

Q. Who did you talk with about that bill?

Mr. HELLENTHAL. Objected to as immaterial.

A. I don't remember talking with anybody about that.

Q. Weren't you assisting in getting the legislature to enact the law permitting the Indians to organize some town government of their own?—A. No, sir.

Q. You remember when the legislature of 1915 enacted that law?—A. Yes, sir.

Q. Were you in any way instrumental in getting that law passed?—A. No, sir.

Q. Did you recommend it or not recommend it?—A. I don't think I took any interest one way or the other in it. I was in Hydaburg at that time.

Q. You had charge of the bureau of education at Hydaburg at that time?—

A. Yes; I was teacher there.

Q. You were aware of the passage of that act known as chapter 11 of the session laws of the Territory of Alaska for 1915?—A. Yes, sir.

Q. And after that act was passed you took steps to have the natives at Hydaburg organize a town government under that?—A. The town government was organized prior to that.

Q. Under what law?—A. There wasn't any special act it was organized under; just common consent.

Q. Just ordinary consent government by the Indians?—A. Consent by the governed, the people themselves.

Q. The people themselves, without any special legislation on the subject, organized a sort of consent government?—A. Yes, sir.

Q. And enacted rules which they agreed to abide by?—A. Yes, sir.

Q. Until this law of 1915 was enacted. Did you then incorporate under that?—A. Then we followed that; yes, sir.

Q. And you notice that that law provides that no one can be an elector there except one who is a member or descendant of members of the Thlinget, Tsimpsan, or Hydah people, or people belonging to other Alaska Indian tribes?

Mr. HELLENTHAL. I object to that. The law speaks for itself.

A. Yes, sir.

Q. And that rule you followed and allowed no one else to vote?—A. There was no one else to vote in that town excepting this one white man who was living there and, as a matter of course, he voted.

Q. He voted, did he?—A. Yes, sir.

Q. How did he happen to get permission to vote?—A. By common consent; he just took it; he was living in the town and voted.

Q. Who was that white man?—A. John Meyers.

Q. Is he the baker?—A. He is the baker; yes, sir.

Q. Did you get him to come there to show them how to bake?—A. He didn't need to; they knew how to bake before he came.

Q. He was running a bakery, though?—A. No; not running a bakery. He was a baker, however, up there.

Q. What was he doing?—A. Just living there.

Q. Was he living with any native woman there?—A. Not now.

Q. He was at that time?—A. He had a wife living at that time.

Q. A native woman?—A. Yes, sir.

Q. He has remained there since she went away?—A. Since her death.

Q. He was a sort of an adopted citizen of the Hydah Tribe?—A. No; he just found a native girl and liked her and married her and came where her home was.

Q. Now, you are aware of the amendment to that act, chapter 25 of the Session Laws of the Territory of Alaska for 1917, undertaking to interpret the prior act to the effect that the Indian town government has no jurisdiction over white residents residing within the corporate limits of the village?

Mr. HELLENTHAL. Objected to; the law speaks for itself.

A. I know every bit.

Q. The white people objected in various parts of Alaska to be governed by the Indians?—A. Just one white town.

Q. Which one was that?—A. The town of Hoonah.

Q. Now, you knew that there was a general sentiment among the natives of Klawock and Hydaburg in favor of Sulzer at the last general election in 1918?

Mr. HELLENTHAL. Objected to as immaterial.

A. No; I don't know about that.

Q. You knew that he was on friendly terms with most of those natives in his neighborhood?

Mr. HELLENTHAL. Objected to as immaterial.

A. I know that there was a division among them on account of that fisheries bill, and a good many of them were loyal to Wickersham.

Q. You know, as a matter of fact, that the record shows that a number of the Indians from Hydaburg who voted at Sulzer voted for Charles A. Suizer in the election of 1918?

Mr. HELLENTHAL. Objected to as immaterial; the record speaks for itself.

A. I don't know about that.

Q. Now, you are familiar with this resolution adopted by the Indians at a meeting held at Klawock, and I want to read it to you and ask you whether or not that expressed the sentiment of the Indians, so far as you know it.

## A RESOLUTION OF THANKS.

- "Whereas, the towns and people of Klawock, through their mayor and council, through their Government school and teachers, especially through Prof. and Mrs. Hibbs, and through their other organizations, such as the pastor and members of the Presbyterian Church, the officer in charge and members of the Salvation Army, the members of the Klawock Brotherhood, the Klawock brass band, and the other organizations, have so kindly welcomed us to their homes and provided for our daily wants all through the time of our conferences of the school fair; and
- "Whereas, this school fair has been brought about and encouraged by the Alaska division of the United States Bureau of Education, and in many ways, through its superintendent and the field officers, made this school fair very instructive, interesting, and successful; and
- "Whereas, the friend of the natives of Alaska, the Hon. Charles A. Sulzer, Delegate-elect to the next Congress of the United States, has so well presented the cause and need of an enlightened and educated life as applied to the natives of Alaska, under the American flag, in the conference of the school fair; be it therefore

*Resolved*, That we extend to these friends and brethren our most healthy and sincere thanks, and we wish for them all the success and blessings of this life.

"EDWARD MARSDEN, *Metlakatla*,  
 "RALPH YOUNG, *Sitka*,  
 "GEORGE HALDANE, *Hydaburg*,  
 "CHARLES S. NEWTON, *Kake*,  
*"Committee on Resolutions."*

Now, this represents the sentiments of the natives down there, so far as Mr. Sulzer is concerned, doesn't it?

Mr. HELLENTIAL. I object to that as immaterial. That speaks for itself.

A. It does.

Q. And Mr. Sulzer attended the fair himself?—A. By request; yes, sir.

Q. Of whom?—A. The committee on arrangements.

Q. Who was that committee?—A. The names of them?

Q. Yes.—A. Edward Marsden, of Metlakatla; Herbert Merchantson, of Metlakatla; George Haldane, of Hydaburg; John Brown, of Hydaburg; William Benson, of Klawock; Robert Peratovich, of Klawock; Charley Newton, of Kake; and the teachers.

Q. And the teachers at Klawock?—A. Yes, sir.

Q. And of Hydaburg?—A. Yes, sir.

Q. Who were the teachers at that time at those two places?—A. At Hydaburg was Marius Hansome and C. E. Hibbs, of Klawock. The governor and Judge Jennings were also invited to be present at that fair, but were unable to attend.

Q. Now, how many of the Seattle weekly papers do you suppose come to Klawock?—A. About a dozen copies.

Q. How many magazines come there?—A. I don't know how many. I just noticed the Saturday Evening Post, the Physical Culture, and the Literary Digest in the post office there.

Q. And about the same number at Hydaburg, you think?—A. There are more at Hydaburg.

Q. How many more?—A. Oh, I think double that number.

Q. Are there many white people coming to Klawock and Hydaburg to trade?—A. A good many.

Q. Fishermen call in there—I mean white fishermen?—A. Yes, sir.

Q. And white fishermen get their mail there at both places?—A. Yes, sir. The canneries get their mail at those post offices, it being convenient.

Q. And those fishing boats and cannery tugs call there from time to time?—A. Yes, sir.

Q. At both places?—A. Yes, sir.

Q. And trade at the store?—A. Yes, sir.

Q. Now, do you know of any natives—the natives at either of those villages—who subscribe for any of those papers?—A. Personally?

Q. Yes.—A. Yes, sir.

Q. Who are they?—A. In Hydaburg, Jack George subscribes for the Thrice a Week World, published in New York City; Powell Charles subscribes for the Kansas City Star; Rufus Edenshaw subscribes for the Pathfinder; George

Haldane subscribes for the Brooklyn Daily Eagle; and the ones who have the Seattle papers, why, they are general; anyone buys them at the store.

Q. Now, who organized this trading company at Hydaburg? Was that organized by the Bureau of Education?—A. It was organized by the stockholders themselves.

Q. But who had charge of it; who had charge of the work of organizing?—A. At that time I was teacher there and acted as accountant for the store, for the stockholders.

Q. And you were general adviser in showing them how to organize, weren't you?—A. Yes, sir.

Q. You acted as bookkeeper, keeping the books for them?—A. Yes, sir.

Q. And helped them to buy and fix prices?—A. Very little on the buying and fixing of prices. That was usually left to the storekeeper—practically all to the storekeeper.

Q. Did the Bureau of Education furnish any of the money to finance any of the enterprises there?—A. No, sir.

Q. Did they furnish any money to help start the sawmill?—A. A loan; it was afterwards paid back.

Q. The Bureau of Education loaned money to finance the sawmill?—A. They advanced the money for the sawmill, and at the end of two years it was refunded.

Q. Did the Bureau of Education advance any money for the store?—A. No, sir.

Q. Did the Bureau of Education advance any money for any other enterprises there?—A. None.

Q. Now—A. (Interrupting.) In speaking of those subscriptions, Mr. Rustgard, I should have mentioned there were several subscribers for the Juneau Empire and the Ketchikan Daily Miner.

Q. How many subscribers does this native paper called the New Native (Exhibit No. 3) have?—A. Practically every family in town subscribed for it.

Q. In Hydaburg?—A. Yes, sir; and, of course, several in Klawock, it being the neighboring town's paper; and then copies of it are sent throughout the district.

Q. Could you state approximately what the subscription list of this paper amounts to—the number?—A. No; I can not.

Q. This is published for the benefit of the Indians of southeastern Alaska?—A. By a local company of native boys, who had bought the outfit from the Ketchikan Miner, and ran it on a stock-company basis.

Q. Now, as a representative of the Bureau of Education, you have been, together with the other school-teachers in the employ of the Bureau of Education, interested in prosecuting people for giving liquor to the natives prior to the bone dry law?

Mr. HELLENTHAL. I object to that. I think it is rather far-fetched.

A. Personally, I have had no case like that before me.

Q. Well, haven't you taken an interest in seeing the law prohibiting the giving of liquor to Indians enforced?—A. Yes, sir; as a citizen interested in moral welfare.

Q. Now, if anybody gave any whisky to any Indian who was a resident of Hydaburg or Klawock, why, you would have him prosecuted for it, wouldn't you?—A. No, sir.

Q. They were prosecuted for those things?

Mr. HELLENTHAL. We object to that. The records are the best evidence if there were such prosecutions.

A. I have had nothing like that since I have known Hydaburg.

Q. And have you had anything like that since you knew Juneau; that is, giving liquor to the natives of Auk Village?—A. It has come to me through the regular channels.

Q. And you thought that prosecution right, didn't you?—A. I considered it right, because he is a man primarily rather than because he is an Indian.

Q. You knew that until they got the bone-dry law for Alaska the courthouse here was crowded almost constantly with cases involving the crime of giving liquor to Indians?

Mr. HELLENTHAL. I object to that as immaterial.

A. I know there were a good many cases.

Q. They were going on constantly. Did you ever know of one of those cases where the Indian was held to be a citizen?—A. Yes, sir.

Q. Where?—A. That Tommy Wilson case.

Q. Where was that?—A. Right here in Juneau. I believe, and Judge Arctanger defended Tommy Wilson and proved he had a right to buy whisky because he was a citizen.

Q. Arctanger defended him?—A. I think so. Am I wrong?

Mr. RUSTGARD. Yes; you are wrong. You mean the Tommy McGee case.

A. No; the Tommy Wilson case.

Q. The United States versus Tommy McGee of Wrangell, the case went to the court of appeals, is that the one?—A. I don't know.

Q. How long is that since?—A. That was when Mr. W. G. Beattie was superintendent and he testified in Tommy Wilson's behalf, and I knew of it through his telling me there in Hydaburg as to the outcome, which was as I stated.

Q. Where was Tommy Wilson from?—A. Wrangell, I believe, at that time.

Q. How many years is that since?—A. It must have been five or six years ago.

Q. Was that during the time I was prosecuting attorney?—A. I don't know, Mr. Rustgard.

Q. Was it before my time?—A. I don't know that either. I just know of it from Mr. Beattie telling me about his testifying in Tommy Wilson's behalf.

Q. Was it a case tried here at Juneau?—A. I could not tell whether it was or not.

Q. Do you know of another case of the same kind?—A. No, sir.

Q. Just this one isolated case?—A. Yes, sir.

Q. But the prosecution for giving liquor to Indians was very general all through the Territory, wasn't it?

Mr. HELLENTHAL. Object to that as immaterial and not the best evidence.

A. I don't know.

Q. Now, you said something about Jimmie Fox telling about that he did not want to be chief. He didn't tell that to you, did he?—A. No; he told that to his teacher at Douglas.

Q. And his teacher told you?—A. And his teacher told me about it.

Q. His uncle was a chief and died, is that it?—A. No; I don't know as he was any real chief.

Q. Well, was he an unreal chief?—A. He seemed to feel he had some influence he wanted to pass on to his nephew and the nephew refused to take them.

Q. When his uncle died a year ago there was some question as to who was going to be his successor or chief, wasn't there?—A. There was a question; yes, sir.

Q. And the newspapers had it that Jimmie Fox wanted to be the chief to succeed his uncle, that he was elected chief?—A. The paper had a report like that which Jimmie Fox denied.

Q. To your school-teacher?—A. Yes, sir.

Q. Now, you said there were some white people living in Indian Town in Douglas. Do you know who they are?—A. Yes, sir; Mr. Slade, I think, is his name; he used to be United States commissioner at Hoonah—he lives in Douglas.

Q. In Indian Town?—A. Yes, sir.

Q. What is his business?—A. Kind of a carpenter.

Q. Is he married to a native woman?—A. Not that I know of.

Q. Who else? By the way, how long has he been there?—A. He was there when I came to Juneau in 1916 and his house is just about like the other houses of Indians along Indian Street.

Q. He owns a number of those cabins there?—A. Yes, sir.

Q. And is renting them to the Indians?—A. Yes, sir.

Q. Now, who else?—A. I don't think of the names of others. I don't know the names of others, I have just seen them as I passed.

Q. As a matter of fact there are only some Syrians there who have a store and trade with the native Indians?—A. There are others besides the Syrians like George and Myers.

Q. They are the Syrian traders, George and Myers?—A. Yes, sir.

Q. You think there are others?—A. I think so.

Q. Well, you know as a matter of fact, Mr. Hawkesworth, that there is no patent issued by the Government to the land in Auk Village?—A. There is none.

Q. And you know that as a fact, don't you?—A. Yes, sir.

Q. The title to the land is in the Government and the Indians have built their houses there, their shacks?—A. And held by the Government for those Indians.



Q. That is right. And the Bureau of Education has been looking after the rights of those Indians down there as against the white people?—A. Yes, sir.

Q. And looking after their rights so that nobody would encroach upon their rights?—A. As they would come and inform us. The Indians themselves would come to the superintendent of schools and he would take it up with the proper authorities.

Q. The Bureau of Education, through yourself as one of their agents, also made an effort to have the Secretary of the Interior keep the water front in front of Auk Village open so they could go back and forth to their boats—

A. Yes, sir.

Q. Are you well acquainted at Ketchikan?—A. Somewhat.

Q. Do you know J. E. Sayles?

Mr. HELLENTHAL. Objected to as not cross-examination.

A. No, sir.

Q. Do you know Mr. H. Mather and P. Mather?

Mr. HELLENTHAL. Objected to as not cross-examination.

A. Yes, sir.

Q. They live in Ketchikan?—A. I believe so. They have a machine shop there.

Q. Well, they are just as good natives as at Hydaburg. Aren't they the same class of natives?

Mr. HELLENTHAL. Object to that as not proper cross-examination.

A. As far as I know.

Q. Do you know H. Ridley?

Mr. HELLENTHAL. Same objection.

A. I am not sure about the "H". I know a Ridley.

Q. Where is he from?—A. From Metlakahtla.

Q. What is he doing?

Mr. HELLENTHAL. Object to that as not proper cross-examination.

A. He is a gas-boat man.

Q. Is he running a ship of some kind there at Ketchikan?—A. Not that I know of.

Q. He is an intelligent native isn't he?—A. Yes, sir.

Q. Just as good as if he was a Hydaburg native?—A. It wouldn't make any difference where he was, about his being good.

Q. Do you know George Booth?

Mr. HELLENTHAL. Same objection.

A. Yes, sir.

Q. He is a particularly intelligent native, isn't he?—A. Yes, sir.

Q. And he lives at Ketchikan?

Mr. HELLENTHAL. Same objection.

A. I don't know whether he lives in Ketchikan or Metlakahtla.

Q. Do you know his business?—A. No, sir.

Q. He spends a good deal of time there at Ketchikan, doesn't he?

Mr. HELLENTHAL. Same objection.

A. I could not say as to that.

Q. Do you know him personally?—A. I know George Booth. I see him when I go down there.

Q. He is an intelligent native, isn't he?

Mr. HELLENTHAL. Same objection.

A. Yes, sir; fair.

Q. Well, just as good as the best you have got anywhere, isn't he?

Mr. HELLENTHAL. Same objection.

A. I wouldn't make any comparison between them.

Q. You wouldn't know any special difference between him and the best of them?

Mr. HELLENTHAL. Same objection.

A. I would size him up on his own merits.

Q. Do you know Arthur Mathison?

Mr. HELLENTHAL. Same objection.

A. No, I don't.

Q. Do you know George Keegan?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Do you know George Johnson?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Do you know Ben Ridley?

Mr. HELLENTHAL. Same objection.

A. Yes, sir.

Q. Now who is he?—A. A young fellow from Metlakatla. He was at Metlakatla the last time I was there.

Q. Doesn't he live in Ketchikan a good part of the time?—A. I think he does, I think he has worked in the sawmill at Ketchikan.

Q. He is a particularly intelligent native?—A. Yes, sir; and is quite a singer.

Q. He is a vocalist?—A. Yes, sir.

Q. Do you know Matt Fawcett?—A. No, sir.

Q. Or L. Hudson?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Or James Starr?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Or Ed James?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Do you know Mrs. Frank Fiskon?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Or Phillip McKay?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Or James Shields?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Do you know Joe John?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Do you know George Starr?—A. No, sir.

Q. Or Ed Ridley.

Mr. HELLENTHAL. Same objection.

A. I am not sure that I do.

Q. Do you know Andy Moses?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Do you know George James?

Mr. HELLENTHAL. Same objection.

A. No, sir.

Q. Or Robert Young?

Mr. HELLENTHAL. Same objection.

A. No, sir.

By Mr. MARSHALL:

Q. Mr. Hawkesworth, ordinarily where you people have schools under the Bureau of Education you attempt to exercise a good deal of control over the natives, do you not?—A. Not exercise control.

Q. You don't attempt to control them in any way in their activities in what they should do or anything else?—A. Not to arbitrarily exercise any control only as we can suggest and they choose to follow, knowing that the Indians can be led but not driven.

Q. In establishing schools have you ever had occasion to refuse to establish them because the Indians would not comply with your wishes?—A. No, sir.

Q. Over at Angoon did you have any difficulty of that sort with the Indians?—A. No, sir.

Q. Didn't you refuse to establish a school there because they wouldn't move somewhere else that you wanted to put them?—A. No, sir.

Q. You had a conversation with me on that subject at the time I was incorporating that village over there, didn't you?—A. Yes, sir.

Q. What was that conversation, then?—A. The conversation was that the Angoon people wanted to incorporate and it has been a question with us for a long time whether a school should be started in Angoon or not. Those Angoon people have homes in Killisnoo.

Q. Some of them?—A. Some of them; yes, sir. In fact, they told us—pretty nearly all of them did—and we had a school at Killisnoo some two and a half miles away from Angoon, and different ones from Angoon had said that they were going to leave Angoon on account of its tribal associations, and we always had delayed starting a school there, but it has been understood this fall that if they really are going to stay in Angoon and make that a permanent town, then a school will be established this coming winter.

Q. But, nevertheless, for some four or five years they haven't had any school because they wouldn't agree to move to some other place?—A. Not because they wouldn't move to some other place, but because they wouldn't be definite as to their staying in Angoon.

Q. Well, didn't many of them refuse to move?—A. I don't know as to that.

Q. And didn't you attempt to persuade them to move to Fresh Water Bay, or something like that?—A. No, sir; I did not.

Q. And discourage their incorporation under this law because they insisted on remaining in Angoon and incorporating there?—A. No; I didn't discourage them; not in incorporating, either.

Q. I very much misunderstood your remarks at that time then.—A. I wouldn't say anything against a progressive move and you surely did misunderstand me if that was the case.

Mr. RUSTGARD. I would like to ask another question.

Q. Referring to the names of those Indians from Ketchikan that I read off to you a little while ago. Would you say that they are just as well qualified to exercise the right of American citizenship and electors as the other Indians you have testified to?

Mr. HELLENTHAL. I object to that as not proper cross-examination and being immaterial.

A. I am not as well acquainted with those whom I have said I knew from the names you read as I am those on the west coast.

Q. So far as your knowledge of them goes would you say they are just as good, just as qualified?

Mr. HELLENTHAL. Same objection.

A. I know so little about how they think, I could not say.

Q. You said here that after they had gone as far as the fifth or sixth grade in the native schools the children would go to the public schools here?—A. Yes, sir.

Q. How many of those children have graduated from the native schools to the public schools here?—A. There were three.

Q. Who were the three?—A. Let's see—Ruth Willard, Elsie Watson, and Annie Johnson.

Q. Do you know of anybody else?—A. No; I do not.

Q. They are the children of those who have taken out their citizenship papers. Are there any more?—A. Oh, they were in school before their parents had taken out their citizenship papers, as I remember it.

Q. What time did they start in the public schools?—A. This is their second year.

Q. What time did their parents take out their citizenship papers?—A. Harry Willard got his last year and I think James Watson got his last year. Their going to the public school in Juneau did not depend, however, upon their certificate, so-called, of citizenship.

Q. But it depends upon the intelligence of the natives?—A. Yes, sir.

Q. The Watsons and Willards are exceptionally intelligent natives?—A. I wouldn't say exceptional.

Mr. RUSTGARD. That is all.

CHAS. W. HAWKESWORTH.

#### CONTESTANT'S EXHIBIT A.

(View from church door, Auk Village, Juneau, Alaska, September 29, 1919. Omitted in printing.)

#### CONTESTANT'S EXHIBIT B.

(Indian town, Douglas, Alaska. Omitted in printing.)

#### CONTESTANT'S EXHIBIT C.

(View center of Auk Village, Juneau, Alaska, September 29, 1919. Omitted in printing.)

CONTESTANT'S EXHIBIT D.

DEMOCRATIC SAMPLE BALLOT, FIRST JUDICIAL DIVISION.

Mark "X" in the squares at the left of the name of the candidate for whom you desire to vote. If names of candidates for whom you desire to vote do not appear on the ballot, insert with pencil in blank spaces.

	For Delegate to Congress (vote for one).	Designation of party by which nominated.
X	Connolly Francis..... Sulzer, Charles A..... Wickersham, James.....	Socialist. Democratic. Republican.
For Territorial Senator (vote for one).		
X	Britt, William..... Johansen, Crist..... Russell, Ed. C.....	Democratic. Socialist.
For Territorial Representative (vote for four).		
X	Casey, W. W.....	Democratic.
X	Connors, James J.....	Democratic.
	Davies, John H.....	Republican.
	Hofstad, I. M.....	Socialist.
	McCormack, Peter C.....	Republican.
	Shepard, H. R.....	
X	Sowerby, Isaac.....	Democratic.
X	White, E. J.....	Democratic.
	Winn, Grover C.....	
For Road Commissioner, First Judicial Division of the Territory of Alaska (vote for one).		
X	Arness, Olaf..... Wiley, Perry J..... Wilson, Jack.....	Socialist. Democratic.

NOTE.—The names on this sample ballot having an "X" in front are the Democratic candidates, all of whom stand for the government of Alaska by Alaskans. Take this sample ballot to the polling place and when you receive your official ballot mark an "X" on it where this sample is marked.

CONTESTANT'S EXHIBIT E.

[Territory of Alaska, Office of Secretary, Juneau, Alaska.]

CHAPTER 24.

An Act (S. B. 21) to define and establish status of certain native Indians within the Territory of Alaska.

*Be it enacted by the Legislature of the Territory of Alaska:*

SECTION 1. Every native Indian born within the limits of the Territory of Alaska, and who has severed all tribal relationship and adopted the habits of a civilized life in accordance with section 6, chapter 119, Twenty-fourth Statutes at Large 390, may, after the passage and approval of this act, have the fact of his citizenship definitely established by complying with the terms hereafter set forth.

SEC. 2. Every native Indian of the Territory of Alaska who shall desire a certificate of his citizenship shall first make application to a United States Government, Territorial or municipal school, and shall be subjected to an examination by a majority of the teachers of such school as to his or her qualification and claims for citizenship. Such examination shall broadly cover the general qualifications of the applicant as to an intelligent exercise of the obligations of suffrage, a total abandonment of any tribal customs or relation-

ship, and the facts regarding the applicant's adoption of the habits of a civilized life.

SEC. 3. Any native Indian of the Territory of Alaska who shall obtain a certificate in accordance with section 2 of this act, which certificate shall set forth that a proper examination has been duly held and the applicant found to have abandoned all tribal customs and relationship, to have adopted the ways and habits of a civilized life and to be properly qualified to intelligently exercise the obligations of an elector in the Territory of Alaska, shall thereupon obtain an indorsement upon said certificate by at least five white citizens of the United States who have been permanent residents of Alaska for at least one year, who were not members of the examining board as provided in section 2 to the effect that such citizens have been personally acquainted with the life and habits of such Indian for a period of at least one year, and that in their best judgment such Indian has abandoned all tribal customs and relationship, has adopted the ways and habits of a civilized life, and is duly qualified to exercise the rights, privileges, and obligations of citizenship.

SEC. 4. Upon securing such certificate as provided by sections 2 and 3 of this act properly signed in ink, the applicant shall forward the same together with an oath duly acknowledged to the effect that such applicant forever renounces all tribal customs and relationship, to the United States district court for the division in which the applicant resides praying for the granting of a certificate of citizenship.

SEC. 5. Upon receiving such application the judge of the district court shall set a day of hearing on such application, which shall not be less than 60 days from the date of receipt of such application, whereupon the clerk of the district court shall post a notice in his office containing the name of the applicant and the facts set forth in his application, and the date set for the hearing upon the application, and shall immediately forward a copy of such notice to the applicant, whereupon the applicant shall post such notice or a copy thereof in a conspicuous place at the post office nearest to his or her residence.

SEC. 6. Upon approval of such application by the judge of the United States district court for the division in which the applicant resides, the said judge shall issue a certificate, certifying that due proof has been made to him that the said applicant is "an Indian born within the territorial limits of the United States and that he has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life." Said certificate, when presented in court or otherwise, shall be taken and considered as prima facie evidence of the truth of the statements therein contained.

Approved, April 27, 1915.

#### CONTESTANT'S EXHIBIT F.

#### EXECUTIVE ORDER No. 1555.

It is hereby ordered that the following land and water surfaces within the Tongass National Forest, surrounding the village of Hydaburg in Alaska, be and the same are hereby reserved, subject to any vested rights, for use of the Hydah tribe of Indians and such of the natives of Alaska as may settle within the limits of the reservation, viz:

Beginning at a large rock situated at the line of high tide and a few feet north of the sawmill in the village of Hydaburg on the west coast of Prince of Wales Island, at approximately 55° 12' north latitude and 132° 48' west longitude, and at a cross chiseled on said rock, and running thence east 140 chains to a point for the middle of the east boundary of the reservation; thence north 140 chains to a point for the northeast corner; thence west 279.60 chains on land and the water of Sukkwan Strait to a point for the northwest corner; thence south 280 chains on said strait and on land to a point for the southwest corner; thence east 280 chains on said strait and on land to a point for the southeast corner; thence north on the east boundary 140 chains to a point east of the place of beginning, including a tract 12.24 square miles (7,833.6 acres) with all islands and parts of islands within said boundary, as represented upon a diagram<sup>1</sup> accompanying this order and made a part hereof.

WM. H. TAFT.

THE WHITE HOUSE, June 19, 1912.

<sup>1</sup> Not printed.



CONTESTANT'S EXHIBIT G.

[Territory of Alaska, Office of Secretary, Juneau, Alaska.]

CHAPTER 11.

An Act (H. B. 50) to provide for local self-government in certain native villages in the Territory of Alaska.

*Be it enacted by the Legislature of the Territory of Alaska:*

SECTION 1. That any village in the Territory of Alaska, whose inhabitants are members or descendants of members of the Thlinget, Tsimpsean, or Hydah Indian tribes, or other native tribes of Alaska, having not less than 40 permanent inhabitants above the age of 21 years, may form a self-governing village organization for the purpose of governing certain local affairs, as hereinafter described and in the manner hereinafter provided.

SEC. 2. A petition praying for such village organization shall first be presented to the commissioner, ex-officio probate judge, for the recording district in which such village is situated, which petition shall be signed by at least 15 adult members or descendants of members of said Thlinget, Tsimpsean, or Hydah Indian tribes, or other native tribes of Alaska, who are bona fide residents of such village, and shall specify the boundaries and the number of inhabitants of the proposed organized village and shall specify the name by which such village is to be known, and such other facts as may tend to show good grounds for such organization. The commissioner, ex-officio probate judge, shall thereupon fix a time and place for considering said petition, which time shall not be less than 15 nor more than 30 days after the date of such order. At the time and place fixed for considering said petition, the commissioner, ex-officio probate judge, shall give a reasonable hearing to those who are in favor of and those who are opposed to the same, and if he is satisfied that it is to the best interests and welfare of such village to be so organized, he shall, by an order, so judge; and he may, by the order, change or modify the proposed boundaries, which shall in no case embrace more than 640 acres. He shall also, by said order, designate the name and the boundaries of the proposed organized village, and the time and place, when and where, an election shall be held to determine whether the people of the village desire to be so organized; and he shall also, by said order, appoint three qualified residents of such village to act as judges of such election. A copy of said order shall be posted at three public places within the limits of the proposed organized village, at least 15 days prior to the day of election, and such posting shall be deemed a sufficient notice of such election. In case said commissioner, ex-officio probate judge, shall refuse to consider such petition, or after considering the same, shall refuse to make such order, or any order hereinafter provided for, the said petitioners may appeal from such action by the commissioner to the judge of the district court for the division in which said village is situated, in the manner provided by law for appeals from justice's courts.

SEC. 3. That the qualifications of an elector hereunder shall be as follows: He or she shall be a member, or descendant of members of the Thlinget, Tsimpsean, or Hydah people, or people belonging to other Alaskan Indian tribes, and shall be over 21 years of age, and shall have resided within the limits of the village proposed to be organized for a period of six months.

SEC. 4. That said election shall be by written or printed ballot in the following form:

"For organization of the village (name of village proposed to be organized) \_\_\_\_\_ ( )

"Against the organization of the village of (name of village proposed to be organized) \_\_\_\_\_ ( )"

At the same election by separate ballot, 12 of the said members of the village shall be elected as councilmen and said council shall have the following powers:

To make rules and regulations for the conduct of its own proceedings;

To elect from its membership a mayor, a secretary, a municipal magistrate, and a treasurer, all of whom shall serve without pay; and to prescribe their duties and the rules by which they shall be governed;

To pass such ordinances for the government of the village as shall not be in conflict with Federal or Territorial laws, and shall pass ordinances to prevent the practice of witchcraft;

To levy and collect a poll tax not exceeding \$3 per annum on all able-bodied male residents above 21 and under 50 years of age;

To levy and collect a tax on dogs, and a general tax not to exceed 1 per cent per annum on assessed valuation of houses, boats, and canoes (but all household goods shall be exempt from taxation);

To appoint constables and prescribe powers and duties as it may deem necessary;

To provide for the punishment of any violation of its ordinances by fine or imprisonment in the village jail or both such fine and imprisonment, but no such fine shall exceed \$20 nor any such imprisonment 5 days;

To provide for necessary street improvements, water supply, fire protection, lights, public health, and relief of destitution and indigents;

To fill vacancies in the council until the time of next election, and to provide rules and regulations governing place and conditions of the annual election: *Provided*, That public notice of said election shall be given at least 10 days prior to such election.

The commissioners, ex-officio probate judges, shall for acts rendered in pursuance of this act receive the same fees and commissions as are prescribed for similar services when acting as probate judges.

Approved April 21, 1915.

#### CONTESTANT'S EXHIBIT H.

[Territory of Alaska, office of the Secretary, Juneau, Alaska.]

#### CHAPTER 25.

An Act (S. B. 35) to amend chapter 11 of the 1915 Session Laws of Alaska, entitled "An act to provide for local self-government in certain native villages in the Territory of Alaska," by adding section 5.

*Be it enacted by the Legislature of the Territory of Alaska:*

SECTION 1. That chapter 11 of the 1915 Session Laws of Alaska, entitled "An act to provide for local self-government in certain native villages in the Territory of Alaska," be, and the same is hereby, amended by adding to said chapter one more section, said section to be numbered section 5, and to read as follows:

"SEC. 5. That nothing contained in this act shall be construed or interpreted as in any way giving to the village organizations provided for herein any right, authority, or jurisdiction over the property of white residents residing within the corporate limits of the village; it being the purpose of this act to provide governments for the Indian residents of such villages only: *Provided, however*, That if any white person violates any lawful ordinance of such village he shall be deemed guilty of a misdemeanor and tried before a United States commissioner."

Approved May 1, 1917.

#### CONTESTEE'S EXHIBIT No. 1.

IN THE DISTRICT COURT FOR THE DISTRICT OF ALASKA.

Division No. \_\_\_\_\_. At \_\_\_\_\_.

Whereas, \_\_\_\_\_, an Indian born within the territorial limits of the United States, has filed in the office of this court his application for a certificate, under chapter 24 of the acts of the Legislature of the Territory of Alaska, entitled "An act to define and establish the political status of certain native Indians within the Territory of Alaska," approved April 26, 1915, which said application was accompanied by the certificate of a majority of the teachers "of a United States Government, Territorial, or municipal school" and by the indorsement of five reputable citizens, and by said applicant's oath, and

Whereas, due notice has been given of said application and of the hearing thereon, as by law required, upon which hearing said application was duly approved by me.

Now, therefore, this is to certify that due proof has been made to me that the applicant \_\_\_\_\_, is "an Indian born within the territorial limits of the

United States, and that he has voluntarily taken up within said limits his residence, separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life."

Witness my hand and the seal of said court this \_\_\_\_\_ day of \_\_\_\_\_, 19—.

*U. S. District Judge for Alaska, District No. 1.*

CONTESTEE'S EXHIBIT No. 2.

EXECUTIVE ORDER No. 1920.

It is hereby ordered that the tract of land in Alaska, described as follows, in and surrounding the native village of Klawak, and within the Tongass National Forest, be and the same is hereby reserved, subject to any vested rights existing, for the use of the United States Bureau of Education and of the natives of indigenous Alaskan race who may there reside, viz:

*Description.*—Beginning at a point on the shore of the salt bay or mouth of Klawak Stream, 114 links south of a post marked U. S. I. R. 1, which is a witness said point on shore and stands about 30 chains eastward from Klawak village; thence northerly by a marked line 58.49 chains to a point on the shore of Klawak Harbor, which is 30 links north of a witness post marked U. S. I. R. 2; thence westerly along the shore, and then around the peninsula at the mean high-tide mark to point for corner No. 1, the place of beginning; situated approximately in latitude 55° 33' north, longitude 133° 06' west, and estimated to contain 230 acres; as represented upon a diagram<sup>1</sup> accompanying this order and made a part thereof.

WOODROW WILSON.

THE WHITE HOUSE, April 21, 1914.

CONTESTEE'S EXHIBIT No. 3.

(Copy of the New Native, March 28, 1919. Omitted in printing.)

UNITED STATES OF AMERICA,

*Territory of Alaska, First Division, ss.*

I, D. B. Chace, a notary public in and for the Territory of Alaska, do hereby certify that pursuant to the annexed notices at the time and place mentioned therein, to wit: at the office of Hellenthal & Hellenthal, in Juneau, Alaska, at 4 o'clock p. m. of the 27th day of September, 1919, personally appeared before me James Wickersham, contestant, and John Rustgard and John B. Marshall, his attorneys, George B. Grigsby, contestee, and John R. Winn and J. A. Hellenthal, his attorneys, and Steve Regan, Seward Kunz, Olaf T. Thoresen, J. W. Bell, George Demmert, David Waggoner, and Charles W. Hawkesworth, witnesses on behalf of the contestee; that at said time and place contestant objected to the taking of the testimony of any of the witnesses at this time on the ground that sufficient time had not been given; that it was then and there stipulated and agreed by and between contestant and contestee that all objections with reference to the time of serving notice were waived with reference to the following-named witnesses: Steve Ragan, Seward Kunz, Olaf Thoresen, J. W. Bell, George Demmert, David Waggoner, and Charles W. Hawkesworth, whose testimony might be taken at the office of Hellenthal & Hellenthal on Tuesday, the 30th day of September, 1919, at the hour of 8 o'clock p. m., without the service of further notice and that continuance might be had from time to time thereafter until the testimony had all been taken.

That on said 30th day of September, 1919, at the hour of 8 o'clock p. m. at the office of Hellenthal & Hellenthal, personally appeared before me said contestant and contestee, together with their said attorneys and Steve Ragan, Seward Kunz, Olaf Thoresen, J. W. Bell, George Demmert, David Waggoner, and Charles W. Hawkesworth, witnesses on behalf of said contestee; that each of said witnesses were duly sworn by me to tell the truth, the whole truth, and nothing but the truth in the above-entitled matter; that their testimony was then taken down by me in shorthand at the times mentioned in the foregoing

<sup>1</sup> Not printed.

transcript; same being completed on the 1st day of October, 1919; that said depositions were thereafter reduced by me to typewriting and when completed were carefully read over by said witnesses and by them subscribed in my presence; that owing to the departure of the witness Steve Ragan, Mr. Marshall, appearing on behalf of the contestant, waived the signing of the deposition of said Steve Ragan;

That the exhibits attached to these depositions marked contestee's Exhibits Nos. 1, 2, and 3, and contestant's Exhibits A, B, C, D, E, F, G, and H, are the identical exhibits introduced and offered at the taking of said testimony.

In witness whereof I have hereunto set my hand and affixed my notarial seal this 11th day of October, 1919.

[SEAL.]

D. B. CHACE,

*Notary Public in and for the Territory of Alaska, residing at Juneau, Alaska.*

My commission expires May 12, 1921.

*To the above-named contestant, James Wickersham, and his attorneys, John Rustgard and John B. Marshall:*

Take notice, that before Will H. Winston a notary public, at said notary's office in Ketchikan, Alaska, on Saturday, the 11th day of October, 1919, beginning at 10 o'clock a. m. of that day and thence continuing until completed, the contestee, George B. Grigsby, will take the depositions of the following witnesses residing at Ketchikan, Alaska, to wit: J. E. Sayles, Mrs. J. E. Sayles, Mrs. Ida Hannan, W. H. Hannan, John Goodart, J. Shaver, A. Holmberg, Henry Shafer, H. Mather, P. Mather, H. Ridley, George Booth, Arthur Mathison, George Keeghan, George Johnson, Ben Ridley, Matt Fawcett, L. Hudson, James Starr, Ed. James, Mrs. Frank Fiskou, Philip McKay, James Shields, George Starr, Joe John, Ed. Ridley, Andy Moses, George James, Robert Young, Nellie L. Thomas, J. W. Eastman, Charles Starish, George C. Williams, and George B. Grigsby.

Dated this 1st day of October, 1919.

GEORGE B. GRIGSBY, *Contestee*.

Service of the foregoing notice admitted this 1st day of October, 1919.

JOHN RUSTGARD.

*To the above-named contestant, James Wickersham, and his attorneys, John Rustgard and John B. Marshall:*

Take notice that before Will H. Winston, a notary public, at said notary's office in Ketchikan, Alaska, on Wednesday, the 8th day of October, 1919, beginning at 10 o'clock a. m. of that day and thence continuing until completed, the contestee, George B. Grigsby, will take the depositions of the following witnesses, to wit: H. R. Raffelson, Sam Olson, Charles Deppe, Capt. Dibrell, Joe Starr, the said H. R. Raffelson being a resident of Sulzer, Alaska, the remaining aforesaid persons residents of Ketchikan, Alaska; also the deposition of Walter Sharpe, of Ketchikan, Alaska; W. H. Hannan and Mrs. W. H. Hannan, of Ketchikan, Alaska.

Dated this 6th day of October, 1919.

GEORGE B. GRIGSBY, *Contestee*.

Service of the foregoing notice admitted this 6th day of October, 1919.

JAMES WICKERSHAM.

*To the above-named contestant, James Wickersham, and his attorneys, John Rustgard and John B. Marshall:*

Take notice, that before Will H. Winston, a notary public, at said notary's office in Ketchikan, Alaska, on Saturday, the 11th day of October, 1919, beginning at 10 o'clock a. m. of that day, and thence continuing until completed, the contestee, George B. Grigsby, will take the depositions of the following witnesses residing at Ketchikan, Alaska, to wit: Max Faust, W. F. Mahoney, Walter Sharpe, Ed Austin, E. A. Heath, and of James Wickersham, residing at Fairbanks, Alaska, and George B. Grigsby, residing at Juneau, Alaska.

Dated this 9th day of October, 1919.

GEORGE G. GRIGSBY, *Contestee*.

Service of the foregoing notice admitted this 9th day of October, 1919.

JAMES WICKERSHAM.

*To the above-named contestant, James Wickersham, and his attorneys, John Rustgard and John B. Marshall:*

Take notice, that before Will H. Winston, a notary public at said notary's office in Ketchikan, Alaska, on Wednesday the 15th day of October, 1919, beginning at 10 o'clock a. m. of that day and thence continuing until completed, the contestee, George B. Grigsby, will take the depositions of the following witnesses residing at Ketchikan, Alaska, to wit: Wm. Mahoney and Walter Sharpe, and of the following residing at Juneau, Alaska, to wit: George B. Grigsby and J. Bell.

Dated this 13th day of October, 1919.

GEORGE B. GRIGSBY, *Contestee*.

Service of the foregoing notice admitted this 13th day of October, 1919.

JAMES WICKERSHAM.

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NOTICE TO TAKE DEPOSITIONS.

You are hereby notified that before Will H. Winston, a notary public, of Ketchikan, Alaska, at his office in Ketchikan, Alaska, at the hour of 4 p. m. on Thursday, the 16th day of October, 1919, the depositions of the following-named witnesses will be taken on behalf of the contestee, George B. Grigsby, to wit: Jim Wallace, Walter Frank, Rufus Edenso, Jim Edenso, George Charles, Charles Scott, Fred Grant.

All of the aforesaid persons being residents of Hydaburg, Alaska. Dated October 15, 1919.

GEORGE B. GRIGSBY, *Contestee*.

Service of the foregoing notice admitted this 15th day of October, 1919.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

George B. Grigsby being first duly sworn, on oath deposes and says: That he is a citizen of the United States of America over the age of 21 years; that on the 15th day of October, 1919, he served a true and correct copy of the notice herein upon the said James Wickersham, personally, by delivering the said copy hereof to the said James Wickersham at 1 o'clock p. m. in Ketchikan, Alaska, on the aforementioned date.

GEORGE B. GRIGSBY.

Subscribed and sworn to before me this 15th day of October, 1919.

[SEAL.]

WILL H. WINSTON,

*Notary Public in and for the Territory of Alaska.*

My commission expires June 12, 1921.

KETCHIKAN, ALASKA, October 8, 1919.

Pursuant to the foregoing attached notices to take depositions, the matter of the taking of testimony in behalf of George B. Grigsby, contestee, in the contested delegate election case pending before the House of Representatives of the United States Congress, came up before Will H. Winston, a notary public, in his office, at Ketchikan, Alaska.

Present: The said Will H. Winston; the contestant, James Wickersham, in person and also represented by his attorney, A. G. Shoup, and the contestee, George B. Grigsby, in person, as well as being represented by his attorney, Charles H. Cosgrove.

Hearings commenced at 10.10 a. m. of the above date.

DEPOSITION OF W. H. HANNUM.

W. H. HANNUM, duly sworn by notary public.

By Attorney COSGROVE:

Q. Where do you live, Mr. Hannum?—A. Ketchikan.

Q. How long have you lived here?—A. Since May, 1917.

Q. Where were you living in November, 1918?—A. In November, 1918, I was out to the West Coast until the 26th day of the month.

Q. Of what month?—A. Of November—out on Kuiu Island.



Q. Were you in business here?—A. Yes, sir.

Q. Were you at that time?—A. Yes, sir.

Q. What is your business?—A. Trout Fisheries Co., and also in preparation or packing of herring.

Q. Did you vote at the last delegate election, November, 1918?—A. Yes, sir.

Q. Whom did you vote for?—A. I decline to answer that question.

Q. If you were accused of voting for Wickersham, would you deny it?—A. I would neither affirm nor deny.

Q. In other words you prefer to observe a mental reticence?—A. My continental rights or constitutional rights.

Q. And that is the reason is it?—A. I would rather refer it to that.

Q. You have been in conference with Judge Wickersham over your present attitude just before coming here?—A. Well, no; I asked the question if it was necessary for me to tell whom I voted for and I was told it wasn't necessary.

Q. Who told you; Judge Wickersham?—A. Yes, sir.

Q. And that was the advice he gave you?—A. Yes, sir.

Q. Now, where were you living in November, 1918, and prior thereto?—A. Up here in the Ellis property.

Q. How long had you been living there?—A. Since June.

Q. I believe you made annual visits to Alaska for the purpose of engaging in the fish industry?—A. May I answer that question in my own way?

Q. I have no objection.—A. In May, 1917, the Monson brothers and myself organized what is known as the Trout Fisheries Co. for the purpose of fishing trout in the lakes and streams of southeastern Alaska and we were incorporated under the laws of Washington and the permits from Washington, D. C., called for operation in southeastern Alaska, in the lakes, rivers, and streams, and since I engaged in that business, have had no other business outside of part owner and manager of the herring packing, salmon industry, and trout industry, all of which have been centered in southeastern Alaska. My trips which I made from Ketchikan to the eastern part of the United States and in Seattle were all contiguous and appertaining to my business in the North, and I have at all times considered my residency in the North and each and every time I have visited outside I have merely taken apartments from point to point, owned no home in Seattle or anywhere else in the United States of America, and during the time of all those visits mentioned, all my efforts were built upon the operation in the North, of our business. That is my answer, that is the best I know how.

Q. Before coming to Ketchikan to take up your residence as you state, where did you live?—A. Part of the time I was living in California and part of the time in Seattle.

Q. How long did you live in Seattle just prior to coming to Alaska?—A. As I remember it, I think I arrived in Seattle from Woodland, Calif, in May, 1915.

Q. Did you live there from that time continuously until you came up to Alaska?—A. Yes, until I organized that company.

Q. I suppose you voted in Seattle?—A. I did.

Q. Have you voted in Seattle since November, 1918?—A. No, sir.

Q. When was the last time you went south from Ketchikan?—A. On the 26th day of last November.

Q. And when did you return to Ketchikan?—A. I returned this year, 1919. I returned here on the 17th, I think it was, of August, yes; 17th or 18th.

Q. Where was your family during that time?—A. My family were in Seattle part of the time and part of the time in California visiting and attending my wife's mother; she was very near death's door and she went down there to look after her.

Q. I understand you never owned a home anywhere?—A. No.

Q. Always rented?—A. Yes, sir.

Q. Even where you had a residence?—A. Always rented the residence.

By Attorney GRIGSBY:

Q. Is your name Hannon or Hannum?—[Witness spells it:] H-a-n-n-u-m.

Q. You voted in Hadley last November?—A. No, sir; right here in Ketchikan.

Q. Did Mr. Wickersham advise you that you didn't have to tell for whom you voted?—A. I asked him the question.

Q. When?—A. I think it was Saturday evening.

Q. Where?—A. In the Revilla Hotel.

Q. Just exactly what did you say to him?—A. I said is it necessary for me to tell for whom I voted, and he said it is not.

Q. Did you have an engagement to meet him at that time?—A. I did not.

Q. Did he send for you?—A. No.

Q. What is the reason you don't want to tell for whom you voted?—A. I would like to reserve that right.

Q. You have told other people for whom you voted?—A. I think perhaps I might have.

Q. You didn't keep your sentiments about the election secret when it was going on?—A. That would be a matter of hearsay so far as that is concerned.

Q. Your reason for refusing to tell how you voted is because you are afraid the matter will hurt Mr. Wickersham in this contest?—A. No.

Q. What is it?—A. I am not going to state.

Q. You won't tell your reason, you refuse to tell your reason?—A. I refuse by right—my constitutional right.

Q. How do you know it is a constitutional right—who told you that?—A. I have known that since I was 21 years of age, I guess.

Q. When did you first discover it?—A. When the Australian ballot came into existence.

Q. Tell how you discovered it, whether you read it.—A. I don't know whether it was given me by intuition, if it could in that sense.

Q. Do you not know it to be a fact that Mr. Wickersham has advised many of the witnesses, if not all witnesses that he has called in this contest, that it is their duty under similar circumstances, under which you are testifying, to disclose how they voted?—A. He never said so to me.

Q. Do you know as a fact?—A. I don't know.

Q. Do you know that pursuant to that opinion of Judge Wickersham that my attorneys have under such circumstances advised their witnesses to disclose for whom they voted?—A. I don't know that even.

Q. If you did know would that make any difference?—A. I don't think it would.

Q. Is the reason you don't want to tell for whom you voted because you don't want to disclose as a matter of personal privilege or because you don't want to hurt Mr. Wickersham in this contest?—A. Jointly so.

Q. Both?—A. Yes.

Q. When did you last vote in Seattle, Mr. Hannum?—A. I think it was in the spring of 1916 if I remember correctly.

Q. Sure about that?—A. I wouldn't say as to the exact date, it was in 1916, when the dry law was voted on.

Q. Did you vote in Seattle in 1918?—A. No, sir.

Q. When did you first come to Alaska?—A. 1898; 26th day of August.

Q. Have you been here continuously every year since then?—A. No.

Q. When did you first come to Ketchikan?—A. In May, 1917. I have been through Ketchikan going into the interior for a number of years previous, but to take up my home here and to engage in business it was in May, 1917.

Q. And what is your business?—A. Trout Fisheries business.

Q. How long did you stay?—A. Until September 26.

Q. 1917?—A. Yes, sir.

Q. Prior to May, 1917, how long since you had been in Alaska before then?—

A. Since October, 1908.

Q. About nine years?—A. Yes, sir.

Q. You stayed in Alaska from May, 1917, to September, 1917?—A. Yes, sir.

Q. Then where did you go?—A. I went to Seattle.

Q. How long were you there before you returned to Alaska?—A. In April.

Q. 1918?—A. 1918.

Q. And you were here from May to September, 1917; where did you reside?—

A. In the Revilla Hotel.

Q. Was your wife with you?—A. No, sir.

Q. Where was your wife living?—A. She was at Fauntleroy Beach, under the doctor's care?

Q. What State?—A. State of Washington.

Q. So you came up and stopped?—A. Lived here.

Q. From May to September, 1917?—A. Yes, sir.

Q. And were you in town all the time?—A. Most of the time out on the boat, now and then.

Q. In connection with?—A. With my business.

Q. Had you started business?—A. Yes, sir.

Q. What business?—A. Trout fisheries.

Q. Where were your fisheries?—A. In the waters contiguous to Ketchikan.

Q. So that it was convenient that you stay right here in Ketchikan?—A. Yes.

Q. Then you went out in September and returned the following April.—A. Yes.

Q. Have you lived in Ketchikan, then, since?—A. I have lived there.

Q. Ever since 1918?—A. I left the 26th of last November and went to Seattle and was there for about six weeks or two months, then went to Chicago and Cincinnati and Cleveland—

Q. After you got up here in April, 1918—how long did you stay in Ketchikan in 1918?—A. Until November 26.

Q. You weren't outside during that time at all?—A. No, sir.

Q. Did you take an interest in the election, Mr. Hannum?—A. Yes; I did.

Q. A partisan activity?—A. More or less; yes.

Q. In whose behalf?—A. Judge Wickersham.

By Judge WICKERSHAM:

Q. Mr. Hannum, you came into the Revilla Hotel on Saturday night while I was sitting there?—A. Yes, sir.

Q. Had I sent for you?—A. No, sir.

Q. How did you happen to speak to me at that time?—A. I had known you for a good many years; I just approached you as any friend.

Q. Did you show me any papers at that time?—A. Saturday evening?

Q. Yes.—A. No; I think it was day before yesterday that I showed you the subpoenas.

Q. Wasn't it that evening?—A. Possibly it was.

Q. And just after that we had the conversation you spoke about?—A. Yes, sir.

Q. Isn't this what I told you—you asked me something about this examination, and I told you that Mr. Grigsby's attorneys had advised the witnesses that they didn't have to answer for whom they voted?—A. I don't recall it just that way; I know I asked you the question whether I was compelled to tell who I voted for, and you said I wasn't. I remember you stated something about Grigsby, but it went out of my head, because I had no particular interest for Mr. Grigsby, and I don't recall the exact words.

Q. Now, I haven't objected to anybody's telling how they voted, and I don't object to your saying how you voted, and I leave it entirely up to you; and if you want to tell I don't want to make any objection to your telling how you voted on November 5, 1918, for Delegate; it is up to you, not to me.—A. Well, I decline to tell.

Q. You say that in 1916 you formed a corporation for the purpose of doing fishing in Alaska?—A. 1917.

Q. And when did you come to Alaska in pursuance to that business?—A. I left the same month, month of May.

Q. And have you conducted the business ever since?—A. Yes.

Q. From what place?—A. From here.

Q. And how much of the time have you remained here in pursuance to that business?—A. I should judge about little better than one-half the time.

Q. When you have been gone from here what business have you been gone on?—A. This same business.

Q. Where has it taken you to?—A. Took me east as well as Seattle.

Q. Have you had a residence anywhere else than in Ketchikan, during that period?—A. Only apartments where my family remained a portion of the time I was gone east and they afterwards went to California.

Q. Did you go down there to reside?—A. No, sir.

Q. What did your wife go down to California for?—A. To take care of her sick mother.

Q. How long was she there?—A. She left some time in June, I think it was on Sunday, and I was en route from Chicago; left there on the 7th and arrived on the 10th, and I think she left on the 9th for California. I know she was gone when I arrived in Seattle.

Q. Have you maintained or had a home anywhere else except Ketchikan?—A. No, sir.

Q. Where have you made your residence since May, 1917?—A. I had considered Ketchikan my residence.

Q. Have you had any other residence?—A. Nothing, only apartments and the summer cabin at Fauntleroy Beach, for my family.

Q. Have you voted anywhere else?—A. No, sir.

Q. Have you continuously conducted your business here since May, 1917?—A. I have.

Q. At all times?—A. Yes, sir.

Q. Have you had any business anywhere else except here?—A. None, whatsoever.

Q. During the time since 1917 where has your personal property been?—A. I had most of it here.

Q. Did you have any anywhere else except what you took along with you, as clothes?—A. Bedding, took along grips and personal effects.

Q. As you travel?—A. As I do every year.

Q. What did you leave here?—A. About ten or twelve thousand dollars worth of netting and boats over here.

Q. Your business?—A. Yes, sir.

Q. Now you said in answer to Mr. Grigsby that you were on Prince of Wales Island in November, 1918?—A. I was.

Q. Where were you November 5, 1918, election day?—A. Here.

Q. What were you doing over on Prince of Wales Island?—A. We went there for the purpose of locating water rights and cannery site and cold-storage site.

Q. In connection with your business?—A. Which I did locate and have the rights in possession, located by myself for the Trout Fisheries Co.

Q. Had you ever voted in Alaska before November 5, 1918?—A. Yes, sir.

Q. What connection have you had with the Trout Fisheries?—A. I have been secretary two years and president one year.

Q. Where have you voted in Alaska, in what other places?—A. The first time Tom Kahl run, the first delegate for Alaska, I think it was in 1906 and the next time the wet and dry election in Ketchikan, in 1917.

Q. In the city?—A. In the city.

By Attorney COSGROVE:

Q. Does the company maintain an office here?—A. Yes, I have an office in my house.

Q. But there is no office of the company here when you are not here?—A. No, sir.

Q. When you leave the Territory do you still retain your house here?—A. No; rented house, always give it up.

Q. Do you leave any personal belongings here in the way of cooking utensils, furniture?—A. We rent a furnished house.

Q. Whatever you have in the Territory during your time here goes out when you go out in the fall?—A. No; I own a one-quarter interest in the Trout Fisheries and leave my nets and boats.

Q. And that business do you leave it in care of a custodian?—A. Yes, sir.

Q. Are you an official of the corporations?—A. Yes, sir.

Q. What is your—A. Secretary.

Q. Isn't it a fact, Mr. Hannum, that you come here each spring just before the fishing season starts and you leave here each fall just after the fishing season is done?—A. I do.

Q. And the balance of the time you are out of the Territory?—A. Yes; on business of the company, though.

Q. And also your family?—A. Yes.

Q. And they are not on business for the company?—A. No.

Q. These nets and equipment of this corporation, they are all corporation property, I presume.—A. Yes.

Q. None of it owned by you personally?—A. No, sir.

Q. And you have in the company this stock interest?—A. Yes, sir.

By Judge WICKERSHAM:

Q. Were you sick in the spring of 1918?—A. 1919, I was.

W. H. HANNUM.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

#### DEPOSITION OF MRS. IDA HANNUM.

Mrs. HANNUM called and sworn by notary.

By Attorney GRIGSBY:

Q. What is your full name?—A. Ida Hannum.

Q. Did you vote on election day, in last November, for Delegate to Congress—  
A. I did.

Q. For whom did you vote, Mrs. Hannum?—A. Well, I think I have the right not to answer that question if I don't care to.

Q. Last November, I say; I refer to the election of November 5, 1917; you don't care to tell for whom you voted?—A. No; I do not.

Q. Where is your residence?—A. In Ketchikan.

Q. When you came to Ketchikan did you come with your husband in 1917?—A. I did not; I was in ill health and under the doctors' care and he wouldn't allow me to come.

Q. When did you last vote outside?—A. I think I voted in California, and I am not sure whether it was a town election or not; that was the only time I ever voted in my life, except in Ketchikan.

Q. Do you know when that was?—A. No; I couldn't tell.

Q. Was it in 1917?—A. No, sir.

Q. Was it before that time?—A. Yes, sir; several years.

Q. You consider Ketchikan your home?—A. I do.

Q. When you came here did you come with the intention of making this your permanent home, or just for the purpose of staying here in connection with your husband's business?—I came here with the intention of making it my home as long as my husband's business was here.

Q. Did you form an intention in your mind at that time to acquire a residence? Did you think of it at all in connection with acquiring a legal residence?—A. I don't understand.

Q. Did you consider the proposition whether you would acquire a legal residence or not when you came to Ketchikan?—A. I don't know as I thought of it in that way; I thought I would come here and make my home here, as my husband's business was here and I wanted to be with him.

Q. And you naturally thought your home would be where his was?—A. Yes.

Q. Where did you live outside prior to coming to Ketchikan last?—A. Out at Fauntleroy Beach, in Washington.

Q. Have you any house or furniture out there?—A. I have none.

Q. Have you any in Ketchikan?—A. No, sir.

Q. You don't possess any household furniture anywhere?—A. I have some in Petaluma, Calif.

Q. Have you any house there?—A. No, sir.

Q. What is it—stored?—A. Yes, sir.

Q. Did you live there for awhile?—A. I did in Petaluma.

Q. Did Mr. Hannum?—A. Yes, sir.

Q. Have you a home there?—A. No; rented place.

Q. You have no household goods of any kind in Alaska? A. No, sir; except bedding.

Q. Do you take that with you when you go out? A. Yes, sir.

Q. And what is the extent of your bedding?—A. Enough for two beds.

Q. And that is the only household goods you possess in Alaska?—A. Yes, sir. (No cross-examination.)

IDA HANNUM.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

#### DEPOSITION OF CAPT. W. C. DIBRELL.

Capt. DIBRELL called and sworn.

By Attorney COSGROVE:

Q. What is your name?—A. W. C. Dibrell.

Q. What is your official position?—A. Superintendent of lighthouses for Alaska.

Q. How long have you been employed in that business?—A. Little over 6 years.

Q. Are you acquainted with Mr. J. C. Cochran?—A. Yes, sir.

Q. Where is Mr. Cochran now, if you know?—A. Scotch Cap light station.

Q. Is he employed in your department?—A. Yes, sir.

Q. How long have you known him?—A. A little over a year; a year ago last spring.

Q. Do you know where his residence has been during that time?—A. Since then?

Q. Since you had first known him?—A. He was at the Lincoln Rock light station for several months until last spring. In the month of June he was transferred to Scotch Cap.



Q. Do you know whether or not he is a resident of Ketchikan?—A. Well, I don't know definitely about that; in the records he gave his residence as Ketchikan.

Judge WICKERSHAM. I object to that as not the best evidence.

Attorney COSGROVE. You say in your office records it appears he gave his residence as Ketchikan when he entered the service?

Judge WICKERSHAM. I object to that.

Attorney COSGROVE. We don't make any objection to your objection; we are simply going on with the examination; the record will show your objection.

The WITNESS. It is my opinion.

Q. Would there be any difficulty in looking it up?—A. We can easily produce the records.

Q. Do you know what has been his residence since he entered your employ, personally?—A. Since he entered our employ?

Q. Yes.—A. Well, except I know he has been residing at the light stations for the service in Alaska.

Q. Of necessity, while he is in that service?—A. Yes, sir; in connection with his duties.

Q. Do you know where he has considered his residence to be during all that time?—A. No; I couldn't say.

Q. What you know, then, is confined to your records?—A. Yes.

Q. And that is the extent of your knowledge?—A. Yes, sir.

Q. And the office headquarters of the department are located here in Ketchikan?—A. Yes.

Q. Would you mind producing the record?—A. No; I can get it; shall I go over to the office and get it?

Q. If you would go and get it.—A. Am I excused?

Q. Yes.

Attorney GRIGSBY. While he is gone, Judge Wickersham, we have two natives here, Charles Starish and J. C. Starish, both of whom are subpoenaed for Saturday; they are anxious to get out of town. If you will consent to it, we will examine them this morning?

Judge WICKERSHAM. I would rather wait until Saturday; I wasn't anticipating their examination this morning.

Attorney GRIGSBY. It doesn't make any difference to me, except it is for the convenience of these people. You were notified I was going to take their depositions on last Saturday?

Judge WICKERSHAM. Yes; but I received notice from you, dated the 6th of October, regarding the taking of certain depositions to-day, and I don't, of course, object to the taking of those.

Attorney GRIGSBY. But you do object to the taking of the depositions of Charles Starish and J. C. Starish this morning?

Judge WICKERSHAM. Yes; I think I would rather wait until Saturday, when the notice is given.

Attorney GRIGSBY (to the natives). Judge Wickersham insists that you come next Saturday.

Judge WICKERSHAM. On advice of my counsel, I will make no objection.

(Capt. DIBRELL returns.)

By Attorney COSGROVE:

Q. You have the record?—A. Do you want to inspect it?

Q. No.—A. This is the application of Mr. Cochran for the keeper's examination; it is sworn to the 19th of March, 1917, and he gives his residence as Territory of Alaska; length of residence therein, from April 4, apparently, 1911; county or parish, Ketchikan; length of residence in county or parish, six years. He was appointed assistant keeper in the Lighthouse Service, and the record shows he entered on duty April 13, 1918, and just before entering on duty he was examined by a public health officer in connection with his entrance on duty, and that examination was made in Ketchikan, April 9, 1918. He also submits a personal question sheet for the information of the Department of Commerce, and in answer to the question to what his present legal voting residence is, he gives Ketchikan, Alaska.

By Attorney GRIGSBY:

Q. What is the date of that?—A. The date of this paper is April 9, 1918. That seems to be about all bearing on this.

Q. When did he enter the service?—A. Entered on duty April 13, 1918; that is the date his pay began.

Q. And he has been in the service ever since then?—A. Yes; continuously ever since.

Judge WICKERSHAM. I move to strike the evidence of the witness, because it is not the best evidence in the case; because it is not the way to prove the legal residence of the man, Cochran, for voting purposes.

By Attorney GRIGSBY:

Q. Where is he now?—A. Scotch cap light station.

Q. How far from here?—A. About 1,500 miles, in Unimak Pass, Bering Sea.

Judge WICKERSHAM. I move to strike the evidence of the witness as not the best evidence.

W. C. DIBRELL.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

DEPOSITION OF CHARLES STARISH.

CHARLES STARISH called and sworn.

By Attorney GRIGSBY:

Q. What is your name?—A. Charlie Starish.

By Attorney COSGROVE:

Q. Where do you live, Charlie?—A. Saxman.

Q. You Indian?—A. Yes.

Q. Where is Saxman?—A. Saxman, in the south of here.

Q. How far away?—A. About three-quarters of mile.

Q. Isn't Saxman 2 or 3 miles away?—A. I think.

Q. Isn't it a little farther than that?—A. I don't know.

Q. Were you here in November, last November?—A. Yes.

Q. You vote that time?—A. Yes.

Q. Whom did you vote for?—A. Well, I was thinking Wickersham; I think Wickersham.

Q. Wickersham?—A. Yes; I think so.

Q. How did you come to vote that time?—A. Man told me to come over. Bob Oliver; I was pass him and Judge Stackpole, down there standing, and he asked me to come over, and so I come over here.

Q. Bob Oliver and who else?—A. Harvey Stackpole.

Q. And they told you to come here?—A. Yes.

Q. Did they come with you?—A. Yes.

Q. Did they mark your ballot for you?—A. No.

Q. Who marked your paper?—A. Mine.

Q. You marked it yourself?—A. Yes.

Q. How did you find out how to mark your paper?—A. The judge tell about; tell me that you mark yourself, and I went in the little room over here.

Q. Anybody go in with you?—A. No, sir.

Q. And then you put a mark where they tell you?—A. Yes.

Judge WICKERSHAM. I don't think that is what the witness said.

Attorney COSGROVE. That is what he said he did.

Judge WICKERSHAM. That is what you said he did and he agreed with you without thinking.

Attorney COSGROVE. I am not so certain about that.

Attorney COSGROVE (to witness). Did anybody tell you where to put the mark on the ballot?

A. No.

Q. Did they tell you whom to vote for?—A. Yes; they tell about anyone, big piece, sheet paper, name on. You are to mark the names that is.

Q. What did Bob Oliver tell you?—A. He didn't tell anything. He just asked me you are vote already—no. You better go over there.

Q. And did he come up here with you?—A. No; he was here.

Q. What did he say to you when he come in?—A. He didn't say anything to me.

Q. What did you do?—A. They just asked me if I go to vote and I say yes, and Harvey Stackpole says here is a man did not vote yet.

Q. What tribe of Indians do you belong to, Charlie?—A. Grizzly Bear.

Attorney SHoup. I object to that; he hasn't said he belonged to any tribe.

Attorney COSGROVE. What is the name of your tribe of Indians?—A. Bear.

Q. Who is your chief?

Attorney SHoup. I object to that; he hasn't said he has any chief.

The WITNESS. We had one chief, Uncle Sam.

Q. Do you have a local chief, any chief around here?—A. No, we don't look to another chief; one chief is enough.

Q. Where is Uncle Sam, this chief you speak of; where does he live?—A. That was belong to North America.

Q. And he is the only chief you say you recognize; the only chief your tribe has?—A. My head master in Ketchikan.

Q. Did you talk with anybody about this meeting here this morning before you came up here?—A. No, sir.

Q. How often do you vote? How many times you vote?—A. Just once.

Q. And that was last November?—A. Yes.

Q. Never voted before?—A. Never.

Q. Harvey Stackpole pretty good friend of yours, too?—A. No; he just asked me to come, and so I came.

Q. And Bob Oliver pretty good friend?—A. No.

Q. You belong to the Alaska labor union?—A. Yes.

Q. When did you join the union?—A. About three years ago now.

Q. Did you vote here in Ketchikan and live down in Saxman?—A. Yes.

Q. Did you live there last November in Saxman?—A. No; I live here; I live here in Ketchikan since I quit fishing. I left December 19; I went down Saxman.

Q. You live here now, in Ketchikan, now?—A. To-day.

Q. At the present time?—A. No.

Q. Your home in Saxman?—A. Yes.

Q. How long your home been in Saxman?—A. Oh, ever since Saxman been—was a town.

Q. And you lived there ever since?—A. Yes.

Q. And you were living there last November, too?—A. Yes.

Q. 1918?—A. 1918.

Q. Are you a Clinket Indian?—A. Yes.

Q. You own a house in Saxman, don't you, Charlie?—A. I live with my mother; I stay with my mother.

Q. You always lived with her there?—A. Yes.

Q. Several years, long time?—A. Long time; just the town over there; my father built over there.

Q. You lived there all the time since?—A. Yes. I have got to go out.

Q. You go out, of course, but that is your home?—A. Yes.

Q. Last November, that was your home, too; last fall?—A. And December time.

By Attorney GRIGSBY:

Q. Now, Charlie, you remember the election last fall, in November, when you voted?—A. Yes.

Q. Where did you live then?—A. I live here in town.

Q. Where in town?—A. I stay close [cross] creek; I had house over there.

Q. Whose house?—A. I don't know whose it is; one man.

Q. With some other natives?—A. No; I have got house; I paid \$4 a month.

Q. How long did you live there, then? How many days?—A. Little over one month.

Q. When did you move in there?—A. I move down Saxman 19th December.

Q. You moved to Saxman the 19th of December?—A. Yes.

Q. And lived in Ketchikan about one month?—A. One month and a half.

Q. When did you move to Ketchikan; what month?—A. I move down Saxman, you mean?

Q. When did you move to Ketchikan last summer?—A. As soon as I quit fishing.

Q. How long did you live in this house in Ketchikan?—A. One month and a half.

Q. When did you move out there, 19th of December?—A. 19th of December.

Q. When did you move into it; into this house down here in Ketchikan?—A. I couldn't understand much.

Q. When did you go into the house down here?—A. I have no place to stay; my mother in Loring.

Q. When did you go into the house in Ketchikan?—A. I forgot what day.

Q. About the 1st of November?—A. No. Had been in there after election.

Q. But on election day, on the 5th of November, election day, where did you live?—A. Japanese Charlie's place.

Q. In Ketchikan?—A. In Ketchikan.

Q. And how long were you there?—A. A week and half.

Q. And before that where did you live?—A. Fishing.

Q. And before fishing?—A. I was trolling.

Q. Before you went trolling you lived in Saxman?

Judge WICKERSHAM. He didn't say that.

Attorney GRIGSBY. State your objection.

Judge WICKERSHAM. I want him to tell the story, and not you.

Attorney GRIGSBY. Where did you live, Charlie, before you went fishing last summer?

A. I was there in Saxman in the wintertime, and the springtime out fishing, trolling, and come back and forth in Ketchikan.

By Attorney SHORP:

Q. Charlie, you don't belong to any tribe, recognize any tribal authority, any chief?—A. My master in town.

Q. Any tribal law bind you, any tribe of Indians got anything to say about your government?—A. I don't know.

Q. Where did you go to school, Charlie?—A. Down Saxman.

Q. Whose school?—A. Public school.

Q. United States run that school?—A. Yes.

Q. Who did you work for in the summer?—A. Yes Bay.

Q. Yes Bay cannery?—A. Yes.

Q. Are you married?—A. No.

Q. No wife?—A. No.

Q. How old are you?—A. I couldn't tell.

Q. About how old?—A. Little over 40 years now.

Q. Can you read English?—A. Very little bit.

Q. Can you write?—A. Very little bit.

Q. When they gave you paper here when you voted, that ballot, could you read that? What the judge gave you here when you voted on election day?—

A. Yes; I see; I read a bit for the names.

Q. How many people did you vote for that election?—A. Just one.

Q. Did you vote for anybody for the legislature?—A. No.

Q. Didn't vote for Heckman; just for Delegate?—A. No.

By Attorney GRIGSBY:

Q. What is your Indian name?—A. I think you can't get it.

Q. You say it?—A. I have got Indian name; my name Kiday; now you found out.

Q. What does that mean?—A. I couldn't tell. What white man got name for; they have got name.

Q. Are you a chief?—A. (Witness laughs.) Since I born I don't make \$1,000.

By Attorney COSGROVE:

Q. This paper you got that you marked, how many names on it?—A. I couldn't tell; about 30 or 40 names; I don't know.

Q. And do you remember some of the names on the paper?—A. I don't know; I don't remember that.

Q. Where was the name that you marked on the ballot?—A. On the paper?

Q. Where was Mr. Wickersham's name when you made a mark on it?—A. I don't know exactly; I forgot that.

Q. You don't know what office he was running for?—A. Yes.

Q. What was the office?—A. Wickersham.

Q. Wickersham office?—A. Yes.

Q. What office was he running for, do you know?—A. No.

CHAS. STARISH.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

## DEPOSITION OF JIMMIE C. STARISH.

JIMMIE C. STARISH called and sworn.

By Attorney GRIGSBY:

Q. What is your name?—A. Jimmie C. Starish.

Q. Where do you live?—A. Saxman.

Q. How far is that from Ketchikan?—A. Oh, about, pretty close to 3 miles from the dock; 2 miles, maybe.

Q. From Ketchikan?—A. Might be.

Q. Did you live in Saxman last November, election time?—A. Yes; I was down there.

Q. That was your home?—A. Yes.

Q. Did you vote last November at the delegate election?—A. Yes.

Q. Who did you vote for?—A. Wickersham.

Q. Where did you vote?—A. Right here, in Ketchikan.

Q. In this room?—A. Yes; in this room.

Q. In Ketchikan?—A. Yes; in Ketchikan.

Q. Do you know what office Mr. Wickersham was running for?—A. What?

Q. Do you know what office he was running for?—A. No.

Q. Who told you to vote?—A. Well, I heard before that time Wickersham is the best for the poor fellows, and that reason I depend on him.

Q. Who did you hear that from?—A. Oh, lots of my friends talk about when on the street.

Q. Indian boys?—A. No; white people.

Q. Did you talk to Bob Oliver?—A. No.

Q. Did Bob Oliver talk to you?—A. No. When I was down in Saxman, fellows is George Brown; he came down with George Williams; he is a native fellow. He came down here to take me up town to vote and that day, election day, so I came up here. When I came up he leave me up at the post office. When I came there I see Mr. Dale Hunt and he asked me if I voted and I said no and he says you come with me, then, and I come up with him right in the room and he went back again. Then they called me at the table to vote and when they gave me a paper I read it over again and see him and I heard before that, and so I vote Wickersham.

Q. Can you read?—A. I read a little bit.

Q. Could you read enough to see his name?—A. Yes.

Q. Anybody tell you how to mark it?—A. I had a sample before that time.

Q. Who showed you the sample?—A. They come out, I don't know who gave me that; they had a big pile of samples, how to be marked on it, so I seen how to mark by cross.

Q. Did you have a sample with you when you marked it?—A. I had it nearly over one days before I mark.

Q. And you marked just like the sample?—A. Just one name they had marked on it; rest of it has nothing on it. Just showed this mark and you can vote and mark the same thing.

Q. Who told you that?—A. The book says—the sample says so.

Q. Are you a Clinket?—A. Yes.

Q. Have you a chief?—A. No, chief; must we have chief maybe 2 or 300 years ago; not this time; we no got one now.

By Judge WICKERSHAM:

Q. How old are you Jim?—A. Thirty-eight.

Q. Was you registered for the Army?—A. Yes; I am registered.

Q. But you wasn't in the Army?—A. Just registered.

Q. How long did you go to school?—A. Since before Saxman was there; little school down here; used to be Chinese house, where the Stedman Hotel is.

Q. Here in Ketchikan?—A. Yes.

Q. Did you live in Ketchikan then?—A. No.

Q. Where was the school?—A. Just about where the Stedman is now.

Q. And where did you live then?—A. I lived across the creek.

Q. Here in Ketchikan?—A. Yes.

Q. How many years?—A. Since I leave [live] Cape Fox Village we camped across the creek, and that year they had a teacher here, so I run in that, too.

Q. How many years did you go to school?—A. I started about 1892 or 3 I guess; yes; 1893.

Q. And how many years did you go to school—one year, two; how many years?—A. Sometimes I keep my school one month, and my father went over hunting, and then I come. I can't study most of the time.



Q. And when you come back you went to school again?—A. When I come back some time in December, some times in November, I start in school again.

Q. Did you ever talk to me before until to-day?—A. No; I was asking some of my friends who is Wickersham and Sulzer and never met one of them.

Q. Do you belong to a church?—A. Yes; belong before, but not this time.

Q. What church?—A. To the Methodist. I am a Presbyterian in the first place, when the school, it started the same time.

Q. Now, on election day, November 5, 1919, about one year ago, how long before that since you lived in Ketchikan?—A. I was on [over] Chomley, and I came in the 26th of October, and I come down to Saxman.

Q. How long before that had you been to Ketchikan?—A. Just about that time I was down to Saxman; I never be here that time until the boat came after me, so I come up.

Q. What boat came after you?—A. What's his name, George William's boat.

Q. Charlie Starish, who was just on the witness stand, your brother?—A. Yes.

Q. Is he older than you?—A. He is older than me.

Q. Did you ever live in a house here in Ketchikan?—A. No.

Q. Did you live down to Saxman all the time?—A. All the time.

Q. Never lived here in Ketchikan?—A. No.

Q. Had no house here?—A. No house here.

Q. Any people living here; any family living here?—A. No.

Q. You lived here before Saxman started?—A. Yes.

Q. What did you go down to Saxman for—to go to school?—A. Yes; there was a school there—a public school there.

Q. You went to school first here in Ketchikan and then went to school in Saxman?—A. Yes.

Q. What do you do for a living—fishing?—A. I do trapping and fishing and trolling.

Q. Do you own a gas boat?—A. Yes.

Q. What kind of a gas boat?—A. Seine boat.

Q. How much did it cost?—A. It cost \$1,500 in the first place, and I bought a new engine; I got another \$1,500; nearly \$3,700 now.

Q. Have you got papers as captain or engineer?—A. You don't have to on that size boat; just license of the boat.

Q. Whose license, yours?—A. Yes.

Q. How many years have you owned the boat?—A. Three now I owned it. I owned a bigger boat three years before I had the small boat.

By Attorney GRIGSBY:

Q. Your home is now in Saxman?—A. My home since town built in Saxman.

Q. Ever since the town was built?—A. Yes.

Q. How many years ago was that?—A. The town was built in 1895, I guess,

Q. 1895?—A. I guess.

Q. More than 20 years ago?—A. Must be 20 years ago.

Q. You have lived there more than 20 years in Saxman?—A. Yes.

By Judge WICKERSHAM:

Q. Just below here is the town of Saxman?—A. Yes; about 2 miles; anyway boat runs in 17 minutes.

Q. The boat runs down in 17 minutes?—A. Yes.

Q. About as far as Charcoal Point?—A. I don't know exactly; maybe just the same; I do not know; maybe not.

Q. Where were you born—in Alaska?—A. Yes.

Q. And your brother was born, Charlie, in Alaska?—A. Yes.

JIMMIE C. STARISH.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON, *Notary Public*.

DEPOSITION OF H. R. RAFFELSON.

H. R. RAFFELSON called and sworn.

By Attorney GRIGSBY:

Q. What is your full name?—A. Hakon Richard Raffelson.

Q. Where do you live?—A. Sulzer, Alaska.

Q. How long have you lived there?—A. Ten years.

Q. And what has been your business there during that time?—A. I have been connected with the Sulzer mine.

Q. Were you residing in Sulzer on November 5, 1918?—A. I was, yes.

Q. And had been residing there for some months immediately prior to that time?—A. Yes, sir.

Q. You were there on election day, in November, 1918?—A. Yes.

Q. Do you remember the occasion of a boat coming to Sulzer a few days prior to the election from Nome?—A. Yes, sir.

Q. What boat was it?—A. Sea Wolf.

Q. Who was on it?—A. The captain's name was Harry Osborn and a fellow by the name of Billie Carpenter and a fellow by the name of Brown.

Q. Do you know whether any of these persons voted on election day, November 5?—A. Osborn and Carpenter voted.

Q. Did they tell you for whom they voted?—A. No, I couldn't say they did; I was under the impression they voted——

Judge WICKERSHAM. I object to his stating any impression he might have.

Attorney GRIGSBY. You remember the day they landed there?

A. On the 25th or 26th of October.

Q. How do you remember the date, Mr. Raffelson?—A. It was on the day of the Sophia wreck.

Q. Did they tell you how long they had been coming from Nome?—A. Forty-two days out.

Q. And had you ever seen them before?—A. No, sir.

Q. They had never been in Sulzer precinct before?—A. No, sir.

Q. Do you know a man by the name of Shellhouse who was living in Sulzer at that time?—A. Yes, sir.

Q. What is his full name?—A. Aaron Shellhouse.

Q. Was he one of the election officers?—A. No.

Q. Did you have any conversation with him with reference to his being one of the election officers?—A. Several times. I was judge of election myself and acted as clerk, and I went to him several times and tried to persuade him to get on the election board; there were only a few there and practically all Democrats, and I didn't want to have it too one-sided on the election board.

Q. Was he a Republican?—A. He is a Wickersham man; I think he is a Democrat, but he was a Wickersham supporter, and, in fact, he was boosting strongly for him.

Q. Did he refuse to be one of the judges?—A. Yes, sir.

Q. Do you know whether Mr. Shellhouse is an American citizen or not?—A. I have heard people state——

Judge WICKERSHAM. I object to that hearsay evidence.

Attorney GRIGSBY. Go ahead and answer the question.

Judge WICKERSHAM. If he knows.

WITNESS. Yes, I know, he has been in the Canadian Rebellion, I think, in the seventies, and he was employed by the Canadian Government, and there was one party over there that threatened to challenge him when he voted last year, but he didn't do so.

Q. On what ground, that he wasn't a citizen of the United States?—A. On the ground that he wasn't a citizen.

Q. Are you acquainted with the place called Hydaburg?—A. Yes, sir.

Q. Is that in the Sulzer precinct?—A. Yes, sir.

Q. Are you acquainted with the Indians in Hydaburg?—A. Yes, sir, practically know them all.

Q. Did some of the Indians from Haida come over to Sulzer to vote last year?—A. Yes, sir.

Q. Do you know who they were that came over?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. What kind of Indians were these with reference to being civilized or uncivilized?—A. Very much civilized.

Q. A very far state of civilization—read and write?—A. Yes, sir; I wouldn't say all of them can, but I think a majority; they can sign their names, anyway.

Q. Have you been over to Hydaburg?—A. Yes, sir.

Q. Do you know how they live?—A. Just like whites; they have nice houses, a city council, and a mayor.

Q. Do you know with reference to the Haida Indians that voted at Sulzer last fall at the Delegate election whether they were Alaska natives—that is, born in Alaska?—A. The majority of them were.

Q. Those that voted?—A. Yes.

Q. Were there any that were not?—A. I am in no position to say; might be some of the older men. I think they were all Alaska natives.

Q. Were they young men that came over?—A. Yes; young men.

Q. Are any of them in town now?—A. Yes; I think there is; I think I saw one or two of them.

Q. Do you know the history of the Hydaburg Indians with reference to how long they have been in Alaska?—A. No; I couldn't say. They are supposed to have come from British Columbia.

Judge WICKERSHAM. I object to any supposition.

WITNESS. Of course, it is hearsay; I haven't read anything on it.

Attorney GRIGSBY. Just what you know of it, then, you were told the history?—A. Yes.

Q. What is the history with reference to when they first came to Alaska?—A. Well, they came over from Massett, B. C.

Q. When?—A. I don't know; in fact, I rather not make any statement to that effect. I know they came over from How Kan to Hydaburg 7 or 8 years ago—10 years, 8 years ago.

Q. Is How Kan in Alaska?—A. Yes, sir.

Judge WICKERSHAM. Mr. Raffelson, are you a citizen of the United States?—A. Yes, sir.

Q. Where were you born?—A. Copenhagen, Denmark.

Q. What relation have you with the Sulzer estate?—A. I am administrator.

Q. You have been over to Sulzer—in that vicinity—for about 10 years?—A. Yes.

Q. Where did you come from there?—A. Victoria, B. C.

Q. And you have been living in Alaska only for about 10 years?—A. I have been in Alaska before that; but the last time, 10 years.

Q. When were here before?—A. 1902.

Q. How long were you here then?—A. A season, six months.

Q. You were not in Alaska before that time?—A. No.

Q. Then your whole residence, substantially, in Alaska, has been there at Sulzer?—A. Yes.

Q. And you have been with Mr. Sulzer and around the mines and in his store?—A. Yes; yes.

Q. What did you do in Sulzer's store in Sulzer?—A. I was manager of the store.

Q. You say the Sea Wolf came there to Sulzer about the 25th of October?—A. Yes, sir.

Q. Well, did you know where they came from there?—A. Yes, sir.

Q. Where had they come from?—A. Nome.

Q. How long before that?—A. They told me 42 days on the way.

Q. The Sulzer precinct is a very large precinct, isn't it, Mr. Raffelson?—A. Takes in, I guess, 20 miles in circumference.

Q. No more than that?—A. At least, I don't know the exact boundaries; Hydaburg is the farthest place.

Q. But the precinct runs down to Cape Muzon, south end of Prince of Wales Island?—A. Yes.

Q. Do you know whether this boat had been anywhere else in the precinct prior to the 25th?—A. They had not been any other place.

Q. How do you know that?—A. Because they told me so.

Q. They voted there on election day?—A. Yes, sir.

Q. And you were election officer?—A. Yes, sir.

Q. Did you challenge their votes?—A. No, sir.

Q. Why not?—A. I didn't think it was my place to challenge.

Q. You were election officer?—A. Yes. I asked them about not being in the precinct so long, and they said they were sailors and that they had a right to vote in any precinct they got to.

Q. Isn't it true that you or some of the other election officers sent for them and asked them to come up and vote?—A. No, sir.

Q. Wasn't that about it?—A. No.

Q. Isn't it true that you thought they were going to vote for Mr. Sulzer?—A. No; I didn't have any idea.

Q. Isn't that the reason they were not challenged?—A. No, sir.

Q. There was nobody on the election board that was friendly to Wickersham—politically, I mean?—A. I forget who the election board were—myself, Dunc. Campbell, and old man McLeod.

Q. You knew that Wickersham only got two or three votes?—A. Of course we were not friendly toward you.

Q. Not friendly politically?—A. Yes.

Q. And they all knew these men were not in the precinct for 30 days prior to election?—A. Yes, sir.

Q. And still you let them vote?—A. Yes, sir.

Q. Why?—A. I don't know; I asked them about if they had a right to vote, and they stated that they were sailors, and as such they could vote any place.

Q. Did you ask if they had been in the precinct 30 days?—A. I don't recall.

Q. Nothing said about that, was there?—A. I don't think so.

Q. And you think now that they voted for me?—A. I haven't got the slightest idea.

Q. You don't know whether they voted for me or Sulzer?—A. No. I am very much in doubt; I think one of them voted for Sulzer.

Q. Which one?—A. I think Carpenter.

Q. You don't know how the other man voted?—A. No; I don't know which way either one voted; I am just guessing at it.

Q. And you don't know how long they had been in the precinct, except what they told you?—A. No.

Q. You don't know whether they had been in the precinct before that time?—A. No, sir.

Q. You don't know anything about that?—A. No, sir.

Q. Did any other election officer know how long they had been in the precinct?—A. No; didn't have any more knowledge than I had.

Q. None of you challenged them?—A. No.

Q. And you don't know of any reason why you didn't challenge them?—A. No; I don't quite recall. I spoke—I don't know whether it was to Osborn or Carpenter—to find out whether they had a right to vote, and they stated they were sailors, or somebody made that statement; that they were sailors and could vote in any town or any port.

Q. You don't know whether they made that statement or not?—A. No.

Q. Do you know whether other sailors voted there under similar circumstances?—A. There wasn't any others.

Q. Do you know of anybody else voting for Wickersham at that election?—A. Shellhouse.

Q. Who else?—A. That is all; only three votes cast.

Q. You say you don't know whether Shellhouse is a citizen of the United States or not?—A. No.

Q. You know Shellhouse has been on the witness stand here, don't you?—A. Yes.

Q. And Mr. Sulzer's and Grigsby's attorneys examined him very fully, don't you?—A. Yes.

Q. You don't know anything about his being a citizen of Canada or any other country, except from rumor?—A. Just rumor.

Q. Didn't you know Mr. Shellhouse has lived more than 20 years in Alaska?—A. Yes, sir.

Q. Hasn't he got a homestead there?—A. Yes, sir.

Q. And he lives in his own home on his own homestead?—A. Yes, sir.

Q. Has he ever proved up?—A. It is claimed he has.

Q. Don't you know he couldn't prove up on his homestead without he was a citizen of the United States?—A. I don't know anything about that.

By Attorney GRIGSBY. He could by swearing astutely, couldn't he Judge?

Judge WICKERSHAM. You have been in Hydaburg?—A. Yes, sir.

Q. Well, you think those people are very highly civilized?—A. Yes.

Q. Are they more highly civilized than white people around Sulzer?—A. Just as much so.

Q. Now, you know Hydaburg is on an Indian reservation, don't you?—A. Yes.

Q. And all these people that voted had been living on the Indian reservation at that time, did they not?—A. I don't know it is a reservation, there seems to be a different opinion.

Q. You haven't looked into that matter?—A. No.

Q. But they all live in the town of Hydaburg?—A. Yes, sir.

Q. And they have a city council?—A. Yes.

Q. A mayor?—A. Yes.

Q. And they are organized under an act of the legislature permitting Indian villages to organize?—A. I don't know what permission they have got; they have a sort of government themselves.

Q. Haven't you heard they were organized under a territorial act permitting Indian villages to organize?—A. Oh, yes; in a casual way I have, but I wouldn't make any statement to that effect.

Q. You know of it?—A. Yes.

Q. And you say they are Hydaburg Indians, and that they originally came from Massett?—A. Yes, sir.

Q. Massett is on the Queen Charlotte Islands?—A. Yes, sir.

Q. In British Columbia?—A. Yes, sir.

Q. There are some old people there, are there not?—A. Yes.

Q. Do you know whether they were born in Massett or not?—A. I do not; in fact, I am not prepared to make any statement as to where they came from, it is hearsay.

Q. They came from How Kan, about seven years ago, to Hydaburg?—A. Yes.

Q. How Kan was a Hydaburg Indian village, was it not?—A. Yes.

Q. Old-fashion Hydaburg Indian village?—A. Well, pretty nice houses there, although there are totem poles.

Q. Totem poles and that kind of thing; had a chief? When they moved up to Hydaburg the Government took charge of the schools, etc., did it not? They have a Government school there?—A. Yes, sir.

Q. And they have a cooperative store haven't they?—A. Yes, sir.

Q. And the school teacher has been clerk there and looks after the matter of accounts in the Indian store?—A. Yes, sir.

Q. Now the Halda Indians were considerably workmen originally; they made totem polls and did carving and were skilled people, did many kinds of work?—A. I guess so.

Q. Boat builders?—A. Few of them.

Q. You have seen their houses at How Kan?—A. Yes, sir.

Q. They were skillful workmen in wood, in making totem polls and big boats? Ever seen any of their big boats?—A. Well, no; I wouldn't say that I have; what boats they have got now they generally bought off canneries.

Q. They have a wharf in Hydaburg?—A. Yes, sir.

Q. Has that been completed?—A. Yes.

Q. There is an approach so you can get off the wharf?—A. Not yet.

Q. Stands just like it did two years ago?—A. They have built a new wharf and float.

Q. No way to get off?—A. Except going up a ladder.

Q. That is the way it was two years ago, in 1916-17?—A. No; they have a new wharf.

Q. How is the approach?—A. A different wharf altogether.

Q. I was there in 1918, has it been changed any since then?—A. I was there last week and they had a new wharf, and I was there a couple years ago and it is another wharf altogether.

Q. The way you get on the wharf you climb down on a ladder?—A. Yes.

Q. Have they got any roads in Hydaburg?—A. Just walks.

Q. Just plank walks?—A. Yes.

Q. But they have got an Indian school there?—A. Yes.

Q. Maintained by the Government?—A. Yes, sir.

Q. And there is a minister there?—A. Yes, sir.

Q. What church, Presbyterian?—A. Presbyterian Church.

Q. Built by the Presbyterian Church people?—A. I don't know, I think built by themselves.

Q. All their operations there are under the supervision of the Bureau of Education, which has charge of the schools, etc.?—A. I wouldn't say.

Q. You say these people are born in Alaska, all over 10 years old that voted?—A. I guess they were.

Q. How do you know they were born in Alaska?—A. Because they were youngsters when I came here and I saw them first; of course, I am not making any statement.

Q. You don't know where they were born?—A. As I mentioned before I rather not make any statements to that effect.

Q. All you know is, so far as you know they came from Massett, their ancestors?—A. That is a supposition.

By Attorney GRIGSBY. We waive his signature to his deposition.

By Judge WICKERSHAM. We agree Mr. Raffelson need not sign the deposition; it is waived.



## DEPOSITION OF CHARLES DEPPE.

Mr. CHARLES DEPPE, called and sworn.

By Attorney COSGROVE:

Q. What is your name?—A. Charles Deppe.

Q. What is your residence?—A. Here in Ketchikan.

Q. How long have you lived here?—A. Let me see—19 years.

Q. And what is your business?—A. I am right now working for the Beegle Packing Co.

Q. In what capacity?—A. Bookkeeper.

Q. Were you not an election officer at the delegate election held last November?—A. Yes, sir.

Q. Who were with you?—A. Let me see, I guess F. J. Hunt and Ira King.

Q. Do you remember approximately how the Indians voted that day?—A. To the best of my recollection they started to come in about half past 2 or 3 o'clock.

Q. Did they come in attended?—A. Yes, sir; most of them were attended.

Q. Do you remember by whom they were attended?—A. Well, Bob Oliver and Harvey Stackpole seemed to be the persons; they seemed to bring them in here so far as I could tell.

Q. What was the procedure usually followed when Indians were brought in by Mr. Oliver and Mr. Stackpole?—A. Well, at the beginning I asked them if they were citizens or where they were born and they made a ruling that all who registered might vote, on account of the draft; those who registered were entitled to vote.

Q. Do you know how they voted?

Judge WICKERSHAM. You mean for whom they voted?

Attorney COSGROVE. For whom did they vote?

WITNESS. They—

Judge WICKERSHAM. Do you know?

WITNESS. Yes; I know. I know all right. They were supporters of yours. After they would come in here we would ask if they had registered and if they had, we would give them a ticket, the ballot, and some of them couldn't write, and among them was Cultus or Chief Johnson, and whenever anybody couldn't write, some of the judges would come and mark his ticket for him.

Q. You spoke of Cultus Johnson. He is an Indian—Indian chief?—A. Yes. When going into the booths they always had sample ballots with them and, of course, they were very much interested plain enough who they were going to vote for; seemed to be very much interested in the election of Judge Wickersham. They didn't seem to care so much for the balance of them.

Q. Did you help to mark their ballots?—A. I helped to mark about two or three and then I told Mr. Hunt—never mind—no matter—

Judge WICKERSHAM. I object to that.

Attorney COSGROVE. Go ahead and tell it.

WITNESS. I told Mr. Hunt you might as well go and help them vote, because they are your people.

Q. How many Indians do you remember voted that way, Charlie?—A. Not less than about 30 of them, at least.

Q. And all were handled the same way—brought here by Oliver or Stackpole?—A. Well, not all of them—they seemed to be pretty busy—they were the principal ones bringing them in.

Q. Do you know for whom Stackpole and Oliver were engaged actively?—A. That is plain. You could find out easy enough. They were very much interested in the Republican ticket, and had Republican sample ballots.

Q. And all very much interested in the candidacy principally of Judge Wickersham?—A. In fact, of all and Judge Wickersham.

Q. Whether or not you had any talk or altercation with Mr. Hunt over the way they were proceeding?—A. I challenged a few of them and then they simply—the ruling was made. Of course, I had to let them go. I made no further effort on my part in the matter.

Q. Whether or not you were much disgusted?—A. I got very much disgusted.

Q. For what reason?—A. Well, I don't believe—

Judge WICKERSHAM. I object to his stating his belief about the matter; it has nothing to do with the facts.

Attorney COSGROVE. I want the facts, the reason for your attitude?

A. I have known some of those Indians for a long time and know well enough they are not entitled to vote.

Q. Those who voted for Wickersham?—A. I wouldn't say how they all voted; I only went in with three.

Q. Well, those who voted for Wickersham you went in with, do you know whether they had a right to vote?—A. I had my doubts, when it comes down to a fine point—

Q. Do you remember Mr. Sharpe challenging a party, one of the Indians who had registered, one named Ridley, on the ground that he was an alien, having been born in British Columbia, and Mr. Hunt insisted on his right to vote?—A. A few challenges were made, and Mr. Hunt insisted that they were entitled to vote on account that registering made them American citizens.

Q. Was Mr. Hunt active in the furtherance of anyone's candidacy?—A. Well, it was plain to be seen who he was in favor of.

Q. In whose favor was he?—A. Judge Wickersham.

Q. And he was one of the judges at the time?—A. Yes.

Q. Whether or not he was chairman of the board, self-appointed?—A. I guess when it comes down to that I was chairman of the board.

Q. Self-appointed?—A. Yes; with mighty little power.

Q. You say there were a number of these Indians who voted, who, in your judgment, were not entitled to vote, why did you take that view?—A. I have known them here 20 years and I didn't believe they were living as white men, still living as Indians.

Q. Weren't civilized?—A. No; not to the extent—

Q. You say you have known them, personally acquainted with them for 20 years?—A. Yes.

Q. I understood you to say that Mr. Oliver and Mr. Stackpole were very active in behalf of Mr. Wickersham's candidacy?—A. Yes; appeared to be always coming with some of them to the table and trying to persuade us that they were entitled to vote. On this election day there were others besides.

Q. You know they were very strong boosters for Wickersham, don't you?—A. Why, yes.

(Hearing adjourned until 2 p. m. same date.)

2.10 p. m., Mr. Deppe's cross-examination.

By Judge WICKERSHAM:

Q. Mr. Deppe you say you have resided in Ketchikan about 19 years?—A. Yes, sir.

Q. How old are you?—A. I am 56.

Q. Where were you born?—A. Germany.

Q. What part of Germany?—A. Brunswick.

Q. How old were you when you came to the United States?—A. Eighteen.

Q. Were you naturalized?—A. Yes, sir.

Q. Where?—A. In Ketchikan.

Q. Took out first and second papers both here?—A. No; the first papers in Chicago in 1882.

Q. And second papers here, in what year?—A. 1903 or 1904, I am not exactly sure now.

Q. What is your occupation; your business?—A. I am working now for the Beagle Packing Co.

Q. Engaged in the cannery business?—A. Yes.

Q. Have you any interest in the cannery business yourself?—A. Yes, sir.

Q. In what canneries are you interested?—A. Only one, the Beagle Packing Co.

Q. What political party do you belong to?—A. Democratic Party.

Q. You supported Mr. Sulzer at the last election?—A. Yes, sir.

Q. You supported the whole Democratic ticket, going down along the line, didn't you?—A. I don't know, exactly.

Q. You supported Mr. Sulzer, anyway?—A. Yes, sir.

Q. And you did that quite openly; nothing secret either about that?—A. No.

Q. Nobody had any doubts about where you stood?—A. No.

Q. You did what you could to help Mr. Sulzer's interests along?—A. Well, I don't know as I was very active.

Q. Did you make any donation to the campaign fund?—A. No, sir.

Q. Just a personal interest; personal efforts?—A. Yes, sir.

Q. Do you think you were as active as Bob Oliver was?—A. No.

Q. Don't you think you were as active as Bob Oliver?—A. No, sir.

Q. You were one of the election officers?—A. Yes, sir.

Q. Were you here all day on election day?—A. Except when I went to my meals.

Q. What did you do at the election on that day; what part of the work did you perform?—A. Well, took the tickets and asked the questions, with Mr. Hunt.

Q. You were chairman of the board?—A. Yes.

Q. You took the tickets and put them in the box?—A. Yes.

Q. And had a little stick to poke them in with?—A. Yes.

Q. Do you remember very frequently, as you were poking—taking and poking them in that you looked at the tickets to see who they voted for?—A. No, sir.

Q. Isn't it true that when a person had voted, you, in order to find out if he voted for me or not, took that little stick and opened the top of the ballot and looked at them?—A. No; I couldn't always get them in the box; they had a little bit of a slit and the ballot boxes are so small that we had to use two ballot boxes, and poke them down. Never could open them.

Q. Did you go out to do any electioneering?—A. No, sir.

Q. Not on election day?—A. No, sir.

Q. Before that?—A. No, sir.

Q. Didn't talk to anybody about voting?—A. Might have in a casual way, talked.

Q. Didn't do any betting?—A. No, sir.

Q. Do you remember seeing Bob Oliver around on election day?—A. Yes, sir.

Q. What was he doing?—A. I suppose—I don't know what—

Q. What?—A. He took a very active part in the voting; I might say he was watching.

Q. He was in and around all day?—A. Mostly.

Q. Was he there all day, except for a few minutes, when he went out to lunch and down to Charcoal Point?—A. He was gone at different times.

Q. He was the official challenger for the Republican Party, all day?—A. Yes.

Q. And stayed here in the office just as you did, all day?—A. He was gone off and on, and had somebody else in his place.

Q. Who else was here?—A. I don't know; different ones; didn't present any credentials.

Q. But he did.—A. Yes.

Q. And he was here all day? You say he was very active all day?—A. Well, he seemed to be very active; when some one came in we had doubts about, he made his little spiel that he was entitled to vote.

Q. Wasn't that what he was there for?—A. Yes; to a certain extent.

Q. Isn't that what a challenger was here for, to see tha nobody voted illegally?—A. Yes.

Q. And had, as many others have, an interest in all the Republican candidates?—A. I don't know anything about that; he was looking out; had more interest, as Bob himself so stated, in James Wickersham.

Q. He did it fairly, didn't he?—A. Sure enough did.

Q. Didn't do anything illegal?—A. No.

Q. How many times was Harvey Stackpole in here on election day?—A. I couldn't say.

Q. Once?—A. At least a half a dozen to a dozen times, at least.

Q. What doing?—A. He seemed to be bringing in some victims.

Q. Did you see anybody else doing that?—A. Didn't have much chance; most of the time I was quite busy.

Q. Did you see Deputy Marshal Sharpe bringing in anybody?—A. I suppose he brought in some, too.

Q. Why didn't you tell us about that?—A. You didn't ask me; I am here to answer questions.

Q. Did you see anybody besides Mr. Sharpe, the deputy marshall and Mr. Stackpole bringing in voters?—A. Oh, yes.

Q. Who?—A. Couldn't remember.

Q. Did you see Mr. Mahoney?—A. He was in here at different times.

Q. Bringing in voters?—A. I don't know whether he was bringing in voters or not; maybe he did.

Q. What is the difference between his coming in with people and Mr. Sharpe and Mr. Stackpole?—A. No difference. Other people didn't come in as often; those two mostly, as you could notice it.

Q. You marked the tickets for three Indians?—A. Two or three; yes. I wouldn't say sure.

- Q. Well, who did they vote for for Delegate?—A. Wickersham.
- Q. All two?—A. All three.
- Q. You think there were three?—A. I think so.
- Q. Are you sure about that?—A. I am sure; there were three or two. Better make it two, not less than two.
- Q. And they voted for Wickersham?—A. Yes.
- Q. You made out the ballot?—A. I marked it for them.
- Q. You showed them how to make out the official ballot?—A. Marked the official ballot.
- Q. Do you remember who they were?—A. George Johnson or Cultus Johnson.
- Q. How long has he lived in Ketchikan?—A. Twenty years.
- Q. Longer than you have?—A. Yes; before I came.
- Q. Has a house of his own that he lives in?—A. Yes, sir.
- Q. And so far as you know is a pretty good citizen?—A. Well, I don't so far as Indians go.
- Q. You are prejudiced against Indians, are you?—A. No.
- Q. Well, then, you say, so far as Indians go?—A. My experience—my knowledge of Indians—I don't go much on them.
- Q. You are prejudiced?—A. Maybe, to some extent.
- Q. What I thought. Johnson has got a family here?—A. I don't know.
- Q. Living in this house down in Indian Town?—A. I don't know.
- Q. Owns his own property?—A. Owns his own property.
- Q. Has lived here a great many years?—A. Yes.
- Q. Wears clothes like you do?—A. Yes.
- Q. Has been a good citizen, so far as you know?—A. The marshal could tell you more about that.
- Q. You don't know anything to the contrary?—A. No.
- Q. Who was the other one?—A. I don't remember.
- Q. Then, you only remember that you marked the ticket for George Johnson individually?—A. In the name. I don't remember; I am positive there were three, but after I assisted those, then, I refused to go and mark them.
- Q. Mr. Forest J. Hunt was one of the officers here with you that day?—A. Yes.
- Q. You think he is a friend of mine?—A. He has always been an old friend from Washington, I notice.
- Q. And you think he was for me and voted me?—A. You bet he voted for you.
- Q. Did he go outside the polling place to do any electioneering?—A. No.
- Q. Stayed in here, and behaved himself?—A. Yes.
- Q. Attended to his duties?—A. Yes, sir.
- Q. He is one of the prominent merchants in town?—A. Yes.
- Q. Married man, with a big family?—A. Yes.
- Q. Good citizen?—A. Yes, sir.
- Q. So far as you know, observes the laws and behaves himself in every way?—A. Yes, sir.
- Q. Has been on the election board here for a good many years?—A. Yes, sir.
- Q. What did you see him do on election day?—A. Nothing at all.
- Q. But after you told him to go and mark the ballots, when the Indians came in?—A. Well, he asked me to go in with him, and I says, no, you go in there and mark their tickets. I said, those are your cattle; and after then he did it.
- Q. You thought they were voting for his candidate?—A. They came here with sample ballots, and gave the tickets to me open.
- Q. You knew how they were voting?—A. Couldn't help but see.
- Q. And when pushing it in, you would grit your teeth and stab the ballot as if you had some enmity toward it?—A. No.
- Q. Didn't you exhibit any signs of impatience?—A. No; only the ballot box was so small I always had to keep poking it to make room for the ballots.
- Q. Now, if you thought they were voting illegally why didn't you challenge them?—A. I did.
- Q. How many?—A. I don't know; they made a ruling—I told you this morning—anyone that had registered was entitled to vote—Indians—under the draft laws.
- Q. And these boys all had registered under the draft?—A. They said so.
- Q. That was a matter of record?—A. Yes.
- Q. If they voted illegally, it is the duty of the authorities to punish them.
- Q. And Mr. Sharpe, here, who was also politically active, was the United States deputy marshal?—A. Yes, sir.
- Q. And Mr. Mahoney was the United States commissioner?—A. Yes, sir.

Q. And they were the parties who should have arrested them if they voted illegally?—A. Yes, sir.

Q. Nothing of that kind was done?—A. Nothing that I heard of.

Q. Now, a good many of these natives have lived here ever since you lived here—that voted here that day?—A. Some live at Metlakatla, some at Saxman, and some here.

Q. But those who voted had their homes here; had always lived here, except those we had on the witness stand this morning?—A. Some who voted I knew lived at Metlakatla.

Q. You didn't challenge them?—A. They claimed they lived in Ketchikan now.

Q. But you knew they lived in Metlakatla?—A. I didn't know for sure. They live in Metlakatla and come over for a week and then go back to Metlakatla.

Q. If they had lived here 30 days they would have the right to vote?—A. Yes.

Q. Do you know whether any that voted hadn't been here for 30 days?—A. I didn't take any notice.

Q. You know all those Indians belong to the labor union here, also, don't you?—A. I suppose they all do.

Q. They are nearly all fishermen?—A. Yes.

Q. And laboring people?—A. Yes.

Q. And all belong to the labor union here in Ketchikan?—A. I suppose they do.

Q. You have taken some considerable public interest in politics in this Territory; that is, you have been interested in it?—A. Not a prominent part in it; just interested in it.

Q. You remember that we had considerable interest in the election of November 5, 1918, at that time, and immediately prior thereto, about what is known as the Sulzer's fishery bill?—A. Yes.

Q. That was a bill introduced into Congress by Mr. Sulzer and a bill which I criticized very publicly, was it not?—A. Yes.

Q. And you knew the fishermen, including the native fishermen, were very largely opposed to it?—A. Yes, sir.

Q. And you knew the canneries were almost unanimously in favor of it?—A. I don't know the canneries were unanimously in favor of it.

Q. You were?—A. I hadn't paid much attention to it.

Q. You voted for Mr. Sulzer, notwithstanding his introduction of the bill?—A. I did.

Q. Don't you know that the fishermen here very largely voted against Mr. Sulzer on account of it, not for any personal reason?—A. Yes.

Q. They felt that it wasn't to their advantage to have that bill passed?—A. Yes, sir.

Q. And the canneries were very largely supporting it, believing it was to their advantage to have it passed?—A. Well, I don't know; quite a few canneries supported you in opposition to Mr. Sulzer.

Q. Notwithstanding that bill?—A. Notwithstanding that bill.

Q. But you think the labor union was very largely opposed to him?—A. Yes.

Q. And these natives all belonged to the labor union?—A. I don't know a thing about it; I suppose they do.

Q. And that would be at least one explanation why they voted for me instead of Mr. Sulzer?—A. Yes.

Q. Now, a great many of these natives own their own property here in Ketchikan?—A. Not so many.

Q. Some of them do?—A. Not more than 20 or 25.

Q. You know the Mather boys?—A. Three of them—yes.

Q. One of them runs a machine shop over here?—A. Yes.

Q. And one runs a store?—A. Yes.

Q. And other natives own their property and live on their property?—A. Yes, sir.

Q. And they have lived in that way here many years?—A. Yes. Furthermore I believe those Mathers are entitled to vote.

Q. Their father was a naturalized citizen of the United States?—A. Yes, sir; and I guess there is no objection to the Mathers.

Q. Do you know the names of any persons who were challenged?—A. No, I don't; some of them were challenged and had to subscribe to the oaths, but none of the Indians.



- Q. None of the Indians were challenged and had to subscribe to the oath?—  
A. I don't believe.
- Q. There have been schools in Alaska for these natives for a good many years?—A. Yes, sir.
- Q. How long ago was a school established here in Ketchikan for the natives?—  
A. The Episcopalians always had a school here.
- Q. For the native children?—A. Yes.
- Q. And they have one now?—A. Running one now.
- Q. And there have been native schools in Metlakatla and Saxman?—A. Yes.
- Q. And many other places in the Territory?—A. Yes.
- Q. And a great many of these men you spoke about who voted here have gone to school and can read and write?—A. Most of them can.
- Q. Did you see Bob Oliver out of this room on that day?—A. Yes, I saw him out of the room.
- Q. Out on the streets?—A. No, I didn't have any time to see anything outside.
- Q. He was here all day?—A. Most of the time, he stuck pretty close.
- Q. You were very much disgusted to see these people voting?—A. Yes.
- Q. Voting against your candidate?—A. No, to begin with, at that time I thought they were coming in to vote the Democratic ticket, and it wasn't me who was going to bring them in. I object to Indians voting; they come to the city election, these very same people, and they have no interests here.
- Q. They don't own property?—A. If they own property let them vote.
- Q. A great many people in this country ought not to vote?—A. I do not believe anybody from Metlakatla, Saxman, and Loring should come here and vote in the city election.
- Q. What do you think about Black Mary and other prostitutes voting?—  
A. I asked every one of those prostitutes if they lived here for a long time, had property here, and if they were citizens and they had voted, and I guess they all own their own property and have got a place of business.
- Q. You weren't prejudiced against them voting?—A. Under the circumstances, we have got to let them vote.
- Q. Do you know who Mary voted for?—A. No, I had a kind of an idea.
- Q. Do you know who brought her here?—A. No.
- Q. Do you know Mr. Mahoney, the United States commissioner, brought her in his automobile and delivered her here at the door?—A. No, I didn't, because I was sitting at the table.
- Q. You didn't see that?—A. No.
- By Attorney COSGROVE:
- Q. Do you know whether or not Cultus George Johnson has a totem pole in front of his house?—A. Yes, sir.
- Q. Do you know whether or not he is chief of the local tribe on Indians?—A. Always supposed to be chief here.
- Q. Do you know whether he has done anything in late years to exercise his chieftaincy, in the way of a potlatch or gathering?—A. I wouldn't know.
- Q. You do know of this totem pole and, moreover, that he is recognized as chief of the Clinket Indians?—A. Always supposed to be chief.
- Judge WICKERSHAM. What did you ever know of him doing as chief, Mr. Deppe.
- A. I don't know about that. I remember here in the beginning they would give their potlatches and dances, Indian dances.
- Q. But they haven't done that for 10 or 15 years?—A. I don't recall.
- Q. There is a very nice totem pole in Seattle?—A. Yes, sir.
- Q. In Pioneer Square?—A. Yes.
- Q. Would you think that would detract in any way from the citizenship of the people in Seattle?—A. That is a different proposition entirely.
- Q. Who made this totem pole down here?—A. I couldn't tell you.
- Q. Do you know who it belongs to?—A. I wouldn't know who it belongs to.
- Q. Just stands down there in the street?—A. In front of Cultus Johnson's house.
- Q. Isn't it in front of a half dozen houses?—A. No, right in front of his house.
- Q. Isn't it in front of three or four houses also?—A. Those houses were built later on.
- Q. You don't know who put it up there?—A. I don't know.

Q. How old is it?—A. It was there when I came here.

Q. You don't know who owns it?—A. No; I suppose if you were going to take it away Cultus would claim it.

Q. You suppose that?—A. Yes; nothing positive.

By Attorney COSGROVE:

Q. Any decoration on his house; in front of his house?—A. There is some kind of a painting on it; I couldn't tell what it is, representing some Indian painting.

Q. Do you know whether it indicates the fact that that is the chief's house?—A. No; I would not know.

Q. But there is an Indian hieroglyphic there?—A. Yes.

Q. And this totem pole directly in front of that?—A. Yes.

By Judge WICKERSHAM:

Q. Have you known him to hold any camp meetings within the last 10 or 15 years?—A. I don't know anything about that.

Q. As a matter of fact, since these young people have been going to school, they have given up the tribal customs, mostly?—A. I guess the last one was the time Tongass George had a potlatch, three or four years ago.

Q. Where did Tongass George live?—A. A little ways from the cannery in Indian town; it might be more than four years.

Q. What did he do then?—A. Held an old-time potlatch.

Q. Ceremony for the dead?—A. I am not familiar.

Q. Did you attend it?—A. No.

Q. You didn't see it?—A. I passed there and they told me they were having a big potlatch.

Q. You don't know anything about it?—A. No.

Q. Have they got a tribal government of any kind?—A. I don't believe so.

Attorney COSGROVE. Mr. Deppe, have you seen these advertisements advertising the Indian dance to-night?—A. No; I haven't.

Q. Haven't you noticed all the taxis here to-day are advertising the Indian dance—advertising the big Indian dance to-night?—A. No; I have been in here. I came down here at 10 o'clock this morning and have been here since, except when I went to lunch.

By Judge WICKERSHAM:

Q. Have you attended any Indian dances in the last 10 years?—A. No, sir.

Q. Don't you know, as a matter of fact, they dance the tango and the latest waltzes, etc.?—A. I don't know.

Br. Attorney COSGROVE:

Q. You don't know whether the Indians dance or not?—A. No.

CHARLES DEPPE.

Subscribed and sworn to before me this 8th day of October, 1919.

WILL H. WINSTON,  
Notary Public.

#### DEPOSITION OF SAM OLSON.

SAM OLSON called and sworn.

By Attorney GRIGSBY:

Q. What is your full name?—A. Sam Olson.

Q. Where is your residence Mr. Olson?—A. Ketchikan.

Q. How long have you resided in Ketchikan?—A. Nine years.

Q. Continuously?—A. Well, I have been mostly here.

Q. It has been your home all the time?—A. Yes.

Q. Was Ketchikan your home last November?—A. Yes, sir.

Q. Where did you vote last year?—A. Hadley last year.

Q. Who did you vote for?—A. Judge Wickersham.

Q. At that time Ketchikan was your legal residence?—A. Yes; I was out fishing last year and I come in and voted at Hadley at that time, and so I voted.

Q. At that time you were out fishing away from Ketchikan?—A. I was on the west coast and on the road home, and so I stopped at Hadley.

Q. You didn't live at Hadley?—A. No, sir.

Q. Hadn't lived there?—A. No; I stopped there a few days because of the flu.

Q. How many days did you stop there?—A. I think six days.

Attorney COSGROVE. At the time you voted at Hadley did you run in there alone?

A. Yes.

Q. Anybody with you?—A. No, sir.

Q. Weren't there a couple on the boat with you?—A. No, sir; I was alone all summer.

Q. Do you know of anyone else voting at that time who wasn't a resident of Hadley?—A. No. There was a fellow Frank Fredericks, but he used to live there off and on. He had a shack on the point where they are building the new lighthouse dock.

Q. Where was his home?—A. He was living in Hadley; he had a shack there.

Q. Had he lived there very long?—A. Quite a while, I think.

Q. Was he the only one?—A. There was another fellow; I think his name was Myers; a big fat fellow.

Q. Where was his home?—A. He stopped at the same cabin with Frank Fredericks.

Q. Who did he vote for?—A. I don't know; I think there were only six or seven voted at Hadley at that time.

Q. Do you know where the homes of those two were when they were at home?—A. I think they had a home there; they used to rent a shack from Stanley Oaksmith in Hadley.

By Judge WICKERSHAM:

Q. When did you start out fishing, Mr. Olson?—A. Last spring; last year in the spring.

Q. 1918?—A. Yes.

Q. About what time in 1918?—A. It was in April I think it was.

Q. And where did you go fishing?—A. On the west coast of Prince of Wales.

Q. How far from Hadley?—A. About a couple hundred miles.

Q. Hadley is in what precinct, precinct of Hadley?—A. Hadley.

Q. There is a precinct at Hadley?—A. Yes.

Q. How far were you fishing away from Hadley?—A. West Coast—150 miles.

Q. Now, then, 30 days before you voted where were you?—A. I was down at Cape Ommaney.

Q. How far is that from Hadley?—A. I don't know exactly, 150 miles I guess.

Q. Do you know where the precinct of Hadley is, what area of country it covers?—A. Yes, I do.

Q. Do you know what the boundaries are?—A. No; I don't know.

Q. Were you over on Prince of Wales Island at that time, during 30 days immediately preceding election?—A. No.

Q. Fishing all the time?—A. Yes.

Q. Where did you go fishing?—A. Port Alexander.

Q. Where is that?—A. Camp Ommaney.

Q. Where did you fish—out to sea?—A. Outside the point.

Q. And you don't know where the outer boundaries of Hadley precinct are?—A. I don't know exactly what you mean.

Q. Each precinct has a boundary, covers some area of country, and Hadley is probably in the center of it?—A. I don't know.

Q. Mr. Olson, who talked to you about coming here as a witness?—A. Mr. Sharpe phoned down to me at the lighthouse dock.

Q. Mr. Sharpe, the United States deputy marshal in this division?—A. Yes.

Q. When did he phone to you?—A. This afternoon, sometime. He talked to me yesterday.

Q. What did he say to you yesterday about this case, about your testifying?—A. He just asked me to come up and didn't say no more.

Q. Is that the only thing he said—just asked you to come up?—A. Yes; that is all.

Q. Did you ever talk to him before about the matter?—A. No.

Q. Who else had you talked to about this matter?—A. Nobody; he is the only man.

Q. You haven't talked to Mr. Cosgrove?—A. No, sir; he is the only man I talked to.

SAM OLSON.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

## DEPOSITION OF W. B. SHARPE.

W. B. SHARPE called and sworn.

By Attorney COSGROVE:

Q. Your name is W. B. Sharpe?—A. Yes.

Q. You are the deputy United States marshal located at Ketchikan?—A. Yes, sir.

Q. Were you in town last election day—last November?—A. 1918?

Q. Yes?—A. Yes.

Q. It is alleged that you brought up Dudley Allen and his wife to the polls to vote on that day—is that statement true?—A. It is not.

Q. What were the facts?—A. I came over here with them but didn't bring them here.

Q. Did you attempt to influence their vote in any way?—A. I did not.

Q. Do you know J. C. Cochran, whose name has been mentioned in this hearing?—A. I do.

Q. Did you know him at the time of the last election?—A. Yes, sir; and some time prior thereto.

Q. Where was his residence in November, 1918; and for more than 30 days prior thereto?—A. His official residence was Ketchikan, Alaska.

Q. You say you are quite well acquainted with him?—A. Yes.

Q. Intimate acquaintance?—A. Yes.

Q. And you know where his home was?—A. I did; as I stated, his official residence was in Ketchikan, Alaska, on November 5, 1918.

Q. Where was his home?—A. His home was in Ketchikan, Alaska.

Q. And had been for sometime prior to election day?—A. Yes, sir.

Q. Can you tell for how long, approximately?—A. I should say three years prior to 1918.

Q. Do you know Harvey Stackpole?—A. I do.

Q. And Bob Oliver?—A. Yes, sir.

Q. Do you know whether either of them were active on election day?—A. I know they were active.

Q. I mean especially with reference to bringing Indians to the polls?—A. I know that Harvey Stackpole was active in bringing Indians here.

Q. How many, approximately, can you state?—A. I couldn't state approximately, there were several, I couldn't state how many.

Q. What did you observe with reference thereto?—A. That he was talking to Indians around the streets, bringing them up this way and was instrumental in seeing that they got here.

Q. Can't you fix the number?—A. No, sir.

Q. Did you notice whether he had sample ballots?—A. I know he did.

Q. What was he doing with them?—A. Displaying them and distributing them.

Q. Among the Indians?—A. Yes, sir; the sample ballots.

Q. Did you see any ballots?—A. I saw sample ballots in his possession.

Q. Were they marked?—A. I couldn't state as to that.

Q. He was handing them to the natives?—A. I saw some of them that the natives had that were marked.

Q. How were they marked?—A. In most cases they were marked for Wickersham and Davies.

Q. Blank as to the balance?—A. Yes, sir.

Q. Do you know any of the Indians who voted in here that day?—A. I do.

Q. How many could you give the names of?—A. If I could see a list I could tell you better than I could from memory.

Q. Can you recall any of the names?—A. Yes; Chief Johnson, Starish boys, Frank Williams, the Riddleys, whose initials I don't recall; the Mathers, I don't recall the Mathers' initials.

Q. Do you know how any of them voted?—A. They told me how they voted, I didn't see their ballots.

Q. Were any of them brought here?—A. I wouldn't say they were brought right in; they were talked to in regard to voting, I know that.

Q. What about their being civilized and entitled to vote, these natives you speak of?—A. I should judge one I mentioned there I would deem a proper person to vote, Frank C. Williams, or Frank Williams, he is civilized, reads and writes and some of the others I wouldn't consider civilized.

Q. Did you see any of them voting?—A. I saw them in here and going into the booths and passing their ballots in.

Q. Were you acquainted with the residence of any?—A. Acquainted with their residence?

Q. Yes.—A. Yes.

Q. What was their residence, those you saw in here?—A. The two Starish boys I knew didn't reside here in this precinct.

Q. Weren't there others whom you thought not qualified?—A. One of the Riddleys who voted I challenged on the ground that he was an alien, having been born in British Columbia. He produced a registration card and Mr. Hunt insisted that he be allowed to vote, as he had registered and I let my challenge stand on the grounds specified, stating that aliens were compelled to register as well as citizens.

Q. Do you know Mr. Van Mavern?—A. I do.

Q. Did you escort him to Charcoal Point to vote that day?—A. I did not.

Q. Do you know whether or not he went there?—A. He said he was going out, and afterwards he told me he had walked out to Charcoal Point.

Q. Do you know Mr. James Sayles and his wife?—A. Yes.

Q. Do you know whether they voted that day?—A. They voted in this precinct.

Q. Do you know whether their residence was in the town of Ketchikan at that time?—A. I didn't consider they were residents; I considered them as visitors at the time.

Q. Why, had they given up their residence here?—A. If I am not mistaken their residence was rented and they had resided in Seattle prior to that election, the winter prior, and were up here in the summer months and returned to Seattle in the winter months to their residence.

Q. They had given up their residence before election day?—A. They had resided in Seattle prior to election, during the winter, and I think that he was working at Roe Point during the summer, and Mr. and Mrs. Sayles and the family had not been living in Ketchikan during the summer, their residence was at Roe Point in one of the cannery buildings, upstairs over the store.

Q. And both Mr. and Mrs. Sayles voted that day?—A. To my best recollection in this precinct in Ketchikan, Alaska.

By Attorney GRIGSBY:

Q. You said that Harvey Stackpole was very active in inducing Indians to vote?—A. Indians and others.

Q. And do you know who Stackpole was electioneering for?—A. Yes; I knew who he was working for.

Q. Who?—A. Principally for Mr. Davies, and incidentally for Mr. Wickersham.

Q. How many Indians approximately do you know of voting here in Ketchikan at the time of election?—A. Pretty hard to approximate; at one time there were 12 or 14 right in the room here waiting to vote.

Q. Do you know who brought them up or sent them up?—A. I know that George Brown was one out among them.

Q. Who is George Brown?—A. He is a fisherman residing in Ketchikan.

Q. Do you know whether he was a Wickersham supporter or a Sulzer supporter?—A. I know he was a Wickersham supporter.

Q. Very active?—A. Yes, sir.

Q. As a matter of fact, it is well known that these Indians practically all voted for Wickersham?—A. That is my conception of it.

Q. You said that Stackpole was distributing sample ballots among the Indians?—A. Yes, sir.

Q. Do you know whether they were Republican or Democratic ballots?—A. I didn't see the marks on the ones in his hands, but I saw them after the Indians had voted up here and had discarded them and practically all of these sample ballots were marked Wickersham and Davies, and in a few cases for Wickersham only.

Q. Did you observe the manner the Indians voted; were they assisted in marking their ballots?—A. I know they were assisted in some cases; I know Frank Williams went in and marked his own ballot, but most of the Thlinket Indians received assistance.

Q. Do you know Chief Johnson?—A. I do.

Q. Do you know whether or not he received assistance?—A. I don't recall distinctly; I remember seeing him around, but I don't remember just the procedure when he voted.



Q. Were you here when there was a conversation between Charles Deppe and Mr. Hunt, who acted as judge of election, with reference to who would mark the Indians' ballots?—A. If I was here at that time I don't recall the conversation; I don't remember.

Q. What kind of an Indian is George, otherwise known as Chief Johnson or Cultus Johnson, with reference to being civilized?—A. I should term him an uncivilized Indian; he has proven himself such an Indian in the courts here in liquor cases very recently.

Q. Do you know whether or not he has severed his tribal relations or is living in such tribal relations?—A. He is still regarded as chief; claims that title.

Q. Do you know whether he regards himself as chief?—A. I know he does.

Q. Do you know of him holding any potlatches in the last few years?—A. I don't know just what constitutes a potlatch, but I know he has had several powwows and feasts.

Q. You are familiar with the Indians down here in Ketchikan?—A. Yes; I am.

Q. How do they live as compared with white people?—A. This particular Indian you speak of?

Q. I mean all of them?—A. There are exceptions to the rule.

Q. As a rule?—A. As a rule they live as Indians, not the same as white persons; put that down on the Thlinket Indians; and the Tsimpsean Indians are fairly civilized, but practically all the Thlinkets live in one style.

Q. Can you name any others you know that voted here on election day?—A. Let me see. I think James Shields, a Thlinket.

Q. Is he a civilized Indian?—A. Far from it.

Q. Do you know how he voted?—A. I know how he was supposed to have voted; I don't know positively.

Q. Did he tell you how he voted?—A. No; I don't recall whether he has.

Q. You haven't a list of those Indians with you?—A. No; it is up to the office.

Q. Do you know C. Mather and P. Mather?—A. Yes, sir.

Q. Do you know the Ridleys?—A. Yes, sir.

Q. George Booth?—A. I know the Ridleys, but I don't know their initials.

Q. George Booth?—A. Yes, sir.

Q. Is he an Indian?—A. Yes, sir.

Q. Is he what you would call civilized?—A. Semicivilized.

Q. Has he given up his tribal relations entirely?—A. He is a Tsimpsean, if I am not mistaken.

Q. Do you know where he lives?—A. I am not positive; I think in Metlakatla.

Q. Do you know whether he voted here?—A. Yes, sir; he did.

Q. Have you any knowledge as to whom he voted for?—A. Yes.

Q. For whom did he vote?—A. He told me he voted for Wickersham.

Q. Do you know George Keegan?—A. Yes; I do.

Q. What is he?—A. Thlinket Indian.

Q. Do you know where he lives?—A. I know where he did live.

Q. Where is that?—A. Ketchikan, Alaska.

Q. Is he a civilized Indian?—A. No; I wouldn't consider him such.

Q. Do you know whether or not—A. That man Keegan we have had up in court several times in booze cases, and he has proved himself to be an Indian in the sense as applied to the liquor law.

Q. He is a Tsimpsean?—A. No; Thlinket.

Q. Have you been in the houses of these Indians here in town?—A. Yes, sir.

Q. Do they live like white people, or do they live in one room?—A. Chief Johnson's residence, the lower floor is all one room. I have never been in the upstairs; I don't know what is upstairs; I think it is an attic.

Q. Have you been in any other houses?—A. Yes; I have been in Keegan's residence several different times.

Q. How is that furnished; how do they live there?—A. Keegan is very seldom at home; he has more or less trouble with his wife. He has two or three different places he has resided here. Generally when I got down there it was a case of a rough-house of some kind and I was called in.

Q. Does he live in one room?—A. One place he lived in had two rooms, two or three.

Q. Do you know how they sleep?—A. In most residences down there, and I know the one Moses used to occupy right back of Dick Harris's, they would sleep all around on the floor, and dried fish strung up in there.

Q. Any other like that?—A. Chief Johnson's is practically the same as Moses's residence.

Q. Any others that you know?—A. Several; but I can't recall the names.

Q. Do the Ridley boys live down there?—A. One of the Ridleys lives here, and his initials I don't recall; he lives on the hill back of Inman's.

Q. Do you know Matt Fawcett?—A. Yes.

Q. Do you know how the persons whose names I have mentioned voted?—A. I know a great number you mentioned voted for Mr. Wickersham; with the exception of the Mathers, I am not positive as to them.

Q. You know that by what they told you?—A. Yes, sir; in practically every instance.

Q. Do you know Joseph Starr?—A. Yes.

Q. Where is he from?—A. He lives here in Ketchikan so far as I know.

Q. Down in Indian Town?—A. When he is not out during the summer fishing.

Q. Has he adopted the habits of civilized life; is he living like a white man?—A. Semicivilized, more on the Indian order.

Q. Do you know how he voted?—A. He says he voted for Mr. Wickersham.

Q. Do you consider him within the qualifications which would entitle him to vote, as having severed his tribal relations and adopted the habits of civilization?—A. No, sir; I wouldn't consider he possessed those qualifications.

Q. Do you know Ed. James?—A. Yes; I am not very well acquainted with him; I think I have met him once or twice.

Q. Do you know Philip McKee?—A. Yes, sir.

Q. Is he an Indian?—A. Yes, sir.

Q. Describe him as to qualifications.—A. He lacks the qualifications of a voter, hasn't severed his tribal relations, neither Peter nor he.

Q. Do you know James Shield?—A. Yes, sir.

Q. Is he an Indian?—A. Yes; he is out of town at present.

Q. What is he?—A. Thlinket, I think.

Q. What is your opinion as to his qualifications?—A. He lacks the qualifications of a voter, semicivilized, in about the same way as the McKays [McKees]; very much the same type of Indian.

Q. Do you know Joseph John?—A. I have met him, I know, but I couldn't recall—

Q. Do you know Andy Moses?—A. Yes, sir; he is a Thlinket also.

Q. Same class?—A. Same class.

Q. George James?—A. Those James boys—I can't get them clear; we had some dealings with one of them this spring.

Q. Robert Young?—A. I know of him.

Q. You don't know him personally?—A. I may know him personally, but I can't recall by name.

Q. Do you know whether these Indians whose names have been mentioned voted at previous delegate elections?—A. Not to my knowledge; I checked over the books; I don't think they did, unless it might have been one of the Mathers.

Q. This is the first effort that had been made to vote them generally?—A. Yes and this spring.

Q. Do you know whether there was a decided effort to vote them generally in this last election?—A. Yes.

Q. By the Wickersham supporters or the Sulzer supporters?—A. By the Wickersham supporters.

Q. How long have you been deputy marshal in Ketchikan?—A. Four years, approximately.

Q. And as deputy marshal have you had occasion to become pretty well acquainted with these Indians you have mentioned, in the way they live?—A. Yes, sir.

Q. Did you live in Ketchikan prior to the time you were deputy marshal?—A. Yes, sir; I did.

Q. For how long?—A. I don't recollect the exact date; approximately two years.

Q. And during that time did you know these Indians?—A. I might have seen some of them; I don't recall. Most of my acquaintance has been since I have been deputy marshal.

Q. Have you had occasion to go down to the Indian village a great deal?—A. Yes, I have.

Q. As a matter of fact, didn't you go down there several times each week?—A. Yes, and sometimes several times a day, especially in the fall of the year when they came in.

Q. You are very familiar with the habits of those Indians?—A. Yes.

Q. Taking them as a whole, you don't consider them qualified to exercise the franchise?—A. Not the Thlinket Indians.

Q. The names mentioned—most of those were Thlinkets?—A. Yes, sir.

Q. Do you know of any Metlukatla Indians who came over to Ketchikan on election day besides those you have mentioned?—A. No, I don't; if I sat down and got a list of those who voted I probably would recall them, but I haven't taken that trouble.

Q. Now, you were a supporter of Sulzer in the last election?—A. Yes.

Q. And worked for him on election day?—A. I did.

Q. Did you endeavor to get any of those Indians from Indian Town in Ketchikan to vote here in Ketchikan on that day?—A. No; I don't recall having talked to but one, and that was one of the Riddleys; he asked me about voting. He approached me and asked me whether he could vote; I asked him where he was born, and he told me he was born in British Columbia; and I asked him if he had taken out citizen papers in the United States, and he said he had not; and I told him, under those circumstances he better not try to vote. And that is the same man the Wickersham supporters ran in here afterwards for to vote, and I challenged him, and Mr. Hunt insisted that he be allowed to vote because he had registered for the selective-service draft.

Q. Was he allowed to vote?—A. He didn't vote at that time; I left shortly after. I don't recall whether he voted or not.

Q. At that time you mention, do you know how he intended to vote?—A. No, sir. When he told me where he was born I advised him not to attempt to vote.

Q. Could you have influenced his vote if you so desired?—A. I think I could have.

Q. As a matter of fact, with respect to most of these Indians, it is just a question of who gets there first and stays with them until they vote?—A. Yes; and rash promises which some unscrupulous politicians might make them.

Cross-examination by Judge WICKERSHAM:

Q. Mr. Sharpe, where were you born?—A. Detroit, Mich.

Q. How old are you?—A. Forty-five.

Q. How long have you resided in Alaska?—A. Let me see; I don't recall just when I went to Nome—1906, I believe.

Q. You have been in Alaska ever since?—A. No; I went outside and came back into Ketchikan.

Q. How long were you in Nome?—A. Probably three years; three or four years; I don't recall.

Q. And you have been here five or six years, in Ketchikan?—A. Six or seven.

Q. You have been deputy United States marshal for four years?—A. Approximately; I don't recall the date I took the office.

Q. And you are a Democrat?—A. Yes, sir.

Q. And an industrious one?—A. Yes, sir.

Q. You were Mr. Sulzer's personal friend and supporter?—A. Yes.

Q. And worked very industriously for him?—A. To the best of my ability.

Q. You did everything you could to get the voters to come to vote for him?—A. In a fair way.

Q. You say you didn't bring Dudley Allen and his wife to the polls, but walked with them to the polls?—A. That is true; I said that.

Q. Where did you meet them?—A. At the Stedman Hotel corner, if I am not mistaken.

Q. Where were you coming from?—A. I don't know.

Q. Didn't you know they just got off the boat?—A. What boat?

Q. The steamship Jefferson.—A. I don't think that I did.

Q. Didn't you know that the Jefferson was in that day?—A. I don't recall that it was, it might have been.

Q. If Dudley Allen says he just got off the boat that morning it is probably true?—A. If he says that he probably knows what he is talking about.

Q. You know he wasn't a resident of Ketchikan?—A. I don't know from my own knowledge.

Q. You know the people of Ketchikan pretty well, don't you?—A. Yes, sir.

Q. You know the people who reside here fairly well, know the houses they live in pretty well?—A. Generally.

Q. And you didn't know Dudley Allen lived in Juneau and not in Ketchikan?—A. No; I don't know to this day where he maintains his residence.

Q. You say that J. C. Cochran had an official residence in Ketchikan?—  
A. Yes, sir.

Q. Where was his actual residence in Ketchikan?—A. I know where he was employed.

Q. Where was he employed?—A. He was employed by the Sixteenth United States lighthouse district while in Ketchikan and sent to work at Lincoln Rock Light Station.

Q. How long had he been in Ketchikan prior to that day, the day of election?—A. Immediately prior?

Q. Yes.—A. That I couldn't tell you, I know he was on his vacation.

Q. Three or four days?—A. I don't know.

Q. You are pretty well acquainted around Ketchikan?—A. Yes, sir.

Q. And you hang around the hotels a good deal don't you here?—A. Yes, sir.

Q. And you didn't know he just came from Lincoln Rock?—A. No, sir; I haven't the least idea as to how long he had been here prior to election.

Q. But you have determined that his official residence was Ketchikan?—  
A. I have determined and I knew, I was employed in the same capacity and while there my official residence was Ketchikan.

Q. Where was your actual residence?—A. Ketchikan, here.

Q. Where were you?—A. Lincoln Rock, in fact I helped to build that station.

Q. Did he work out there too?—A. Not at that time.

Q. Just prior to the election of 1918?—A. So far as I know, that is my idea of it.

Q. Now, you say you know Bob Oliver and Harvey Stackpole and that they were very active on election days?—A. And Bob Oliver was very active prior to election day.

Q. You were around the polls this very day yourself, weren't you?—A. Election day.

Q. Yes?—A. Yes.

Q. Were you active too?—A. Yes, sir.

Q. What were you doing?—A. Working generally, challenging for one thing and another.

Q. Bringing voters, etc.?—A. No sir.

Q. Didn't do that?—A. I talked to parties outside, but didn't bring any in and didn't come within the specified distance required by law to the polls.

Q. But outside?—A. But outside everything I did on election day was legitimate.

Q. You have no doubt of that?—A. And within the law.

Q. You have no doubt of that? What did you see Bob Oliver doing that wasn't legitimate?—A. One thing, he objected to me acting as a challenger.

Q. Why did he object to you acting as a challenger?—A. On account of me being a Government official; he contended that a Government official lost his civil rights.

Q. And you didn't think so?—A. No, sir.

Q. And you continued to act as a challenger?—A. Yes, sir.

Q. What was Bob doing around here that day?—A. Generally active in several ways; I couldn't tell you every word he said, but he was generally active, as a politician would be on election day.

Q. He was in the room all day?—A. Part of the day; I was in and out myself; he might have been out doing my absence.

Q. Wasn't he the official Republican challenger?—A. He filed his credentials.

Q. And remained here all day?—A. I don't remember; I saw him here. I wasn't here all the time myself, and in my absence I couldn't tell you what Mr. Oliver was doing.

Q. What did you see him doing that you didn't think was legitimate?—  
A. His general attitude and the manner in—

Q. He was boosting for the Republican ticket?—A. Very strongly right in here, I should consider it, as I figured him as the official teller and knew he was the man who looked out to see that they got their ballots and were properly attended to.

Q. Did he go into the booth with anybody?—A. Not to my knowledge.

Q. What did he say to any voter?—A. I couldn't repeat the exact words, but it was his general attitude.

Q. His general attitude was in opposition to your general attitude?—A. His general attitude was in opposition to the conduct of a fair and impartial election.

Q. In trying to get the Republican ticket elected?—A. His general actions were what I should deem they shouldn't be at the polls.

Q. In what way?—A. Just his general behavior, butting into various things that didn't concern him.

Q. Challenging your right to act?—A. When anyone would come in and was challenged that he didn't think should be he would try to defend the party.

Q. Didn't you do that?—A. I put my challenge and specified the grounds I challenged on.

Q. Isn't that what he did?—A. He would side in and try to qualify the man, as well as Mr. Hunt; that is his general attitude I have reference to.

Q. But he sat in here all day and acted as official challenger?—A. I saw him while I was here, but I don't know whether Bob Oliver was here continuously.

Q. But whenever you were here, he was here?—A. I wouldn't say he was all the time.

Q. Do you remember any time when he was not here?—A. I don't recall.

Q. Now, Harvey Stackpole, what did you see him do that day that you thought not proper for a Republican who was working for the ticket like you were working for the Democratic ticket?—A. I can't answer that question in its present form, if you will ask me what I saw Harvey Stackpole do, personally, and leave off the other end of it, I will answer.

Q. Well, leaving off the other end?—A. He was offering advice and what I deemed priming some of the answers, endeavoring to get the Indians' votes in, carrying Indians in, inducing them to vote, distributing sample ballots.

Q. You heard those two Indians testify here this morning?—A. The Starish brothers?

Q. Yes.—A. Yes, sir.

Q. You spoke about him having sample ballots?—A. You refer to those natives having sample ballots?

Q. Yes; wasn't that a very common thing?—A. Yes.

Q. Wasn't that being done by both sides?—A. Yes.

Q. Didn't you see any Democratic sample ballots?—A. Yes.

Q. You saw sample ballots on both sides?—A. But I didn't see Democratic sample ballots distributed in that manner, I haven't any knowledge of such a transaction, not to Indians, at least.

Q. But there were Democratic and Republican sample ballots freely distributed in the town of Ketchikan and all over the Territory on election day?—A. I don't know about the Territory, only Ketchikan.

Q. It was done here?—A. I know Republican ballots were distributed among the Indians.

Q. No Democratic?—A. Not among the Indians.

Q. You are an officer aren't you?—A. Yes, sir.

Q. And it is your duty to prevent the commission of crime?—A. Not any more than any citizen of the United States. It is my duty to serve process when process is handed me.

Q. That is about the end of it?—A. That is my official duty.

Q. Did you challenge any of these people on election day?—A. Yes, sir.

Q. Who did you challenge?—A. So far as I recall they were all Indians. I challenged one of the Riddleys.

Q. And he didn't vote at that time?—A. Not at that time.

Q. You don't know whether he voted after that or not?—A. No, sir.

Q. You don't know what his name was?—A. Ridley; I know the man when I see him, his first name I don't know.

Q. You are a constable under the laws as well as a deputy marshal, Mr. Sharpe?—A. A constable?

Q. Yes.—A. No, sir; that constable is a thing of the past, that has been abolished.

Q. Now, you know the Mathers?—A. Yes, sir.

Q. Did you see them vote election day?—A. I saw them in here; I didn't see them mark their ballots or go through the full transaction.

Q. What do you think about them, do you think they are citizens of the United States?—A. My idea of those people is that they were born in British Columbia and not legal voters.

Q. You know one runs a machine shop?—A. Yes; I know both, but I don't know the owner.

Q. Considering him, the one that runs the machine shop?—A. Are you sure his business is running a machine shop?



Q. What kind of a shop have they got there?—A. Small machine shop.

Q. He is a machinist himself?—A. I don't know he is.

Q. Didn't you see him in there working?—A. I see men working with carpenter tools who are not carpenters. I don't know he is a machinist.

Q. You have seen him working in the shop as a machinist?—A. I have seen him in the machine shop working.

Q. Where does he live?—A. Right back of the machine shop.

Q. Does he own that property?—A. I believe he claims that property.

Q. You understand he owns it and has got the title to it?—A. I couldn't tell you that; I never looked up the record.

Q. He lives there with his own family?—A. Yes.

Q. He lives separate and apart from everybody else in his own house?—A. As far as I know.

Q. Wears pretty good clothes, as mechanics go, doesn't he?—A. Yes.

Q. Talks English?—A. Fairly well.

Q. Reads and writes English?—A. I don't know.

Q. Do you know where he was born?—A. I don't know where he was born. I know where he was supposed to have been born. I wasn't present at the time; hearsay is about the only way you can prove anything about births.

Q. He has a brother here who runs a store?—A. The girls run that, so far as I know.

Q. Their brother owns it?—A. The girls.

Q. Whose girls?—A. Mather girls.

Q. Doesn't he run it sometimes?—A. Very seldom.

Q. You know it is his place?—A. I don't know it is his place, either.

Q. Aren't his girls there?—A. I don't know; their name is Mather.

Q. They are there as clerks?—A. They seem to be running the business.

Q. Do you know where he lives?—A. No; I do not.

Q. You do not know that he resides in his own home which he owns here?—

A. I don't know anything of the kind.

Q. His girls are well dressed, good-looking girls?—A. Fine-looking girls.

Q. They talk English and read and write?—A. I don't know whether they read and write; I know they talk English.

Q. Behave themselves?—A. Yes.

Q. It is a nice store there?—A. Fairly good-looking store.

Q. There is nobody in there but Mather; living there and doing business there, as far as you know?—A. I have seen these girls there.

Q. Isn't there a third one of the Mather brothers?—A. There are only two I recall; maybe there is a third one that I don't know.

Q. Do you know whether their father was made a citizen of the United States in 1898 by the United States district court in this division?—A. I don't know anything about that; I don't know their father. Don't recall him.

By Judge WICKERSHAM. I ask leave here to file a certified copy of the final citizenship papers of their father. I gave the papers yesterday to the boys—I had had it certified at Juneau—to this one that runs the store yesterday—

By Attorney GRIGSBY:

Q. You will have an opportunity to file it in connection with some other witness, Judge.

(Above discussed citizen papers not filed at this time.)

By Judge WICKERSHAM:

Q. Do you know George Johnson?—A. Chief Johnson?

Q. Whom you call Chief Johnson?—A. Yes; I didn't know at first whether that was the name you referred to.

Q. He has a home of his own, does he?—A. Yes, sir.

Q. Where he resides?—A. Part of the time—

Q. With his own family?—A. They are generally gathered there most of the time.

Q. His friends come in to see him once in awhile?—A. And others live there with him, too.

Q. He has lived there how many years?—A. I couldn't tell.

Q. Talks English?—A. Not very good.

Q. Poorly then?—A. Very poorly; the fact is, we have to use an interpreter before the court.

Q. Isn't that generally true with all Indians who talk good English?—A. You know it isn't.

Q. Frank Williams, you said, was a good man?—A. Frank Williams, I said, had considerable civilization and possessed education enough for to qualify him as a voter.

Q. Where does he live?—A. Ketchikan, as far as I know.

Q. Do you know where his house is?—A. No; I don't know.

Q. All these natives wear clothes and go to church and send their children to school, when they have got a school?—A. No; they don't as a rule; some of them do.

By Attorney SHOUR:

Q. Do what?—A. He put a general line of questions and I am answering it generally.

By Judge WICKERSHAM:

Q. They all do wear clothes?—A. I have seen them when they didn't have them.

Q. I will not ask any questions about that?—A. And painted up, too, Judge.

Q. How long ago?—A. Within the last two years.

Q. Where?—A. In Ketchikan.

Q. What were they doing?—A. Drinking; a bunch of Mexicans had marked them up, had a paint pot there.

Q. But you have seen white men do some tricks?—A. Not as pronounced as that. I have seen them with their regalla on, too, at their pow pows.

Q. Down in what is called Indian Town, as a matter of fact, other people own property down there, don't they, it is all within the limits of the incorporated town of Ketchikan?—A. Spoken of here as the town generally, is within the incorporated limits of the town.

Q. Isn't it true the Indians hold title to their own property?—A. Not all of them. I don't think the Mathers who conduct that grocery store own that building.

Q. They have rooms in the building?—A. I think so.

Q. I am asking you generally about their homes?—A. No; I think there is just about a dozen who have.

Q. A good many rent?—A. Yes.

Q. But they live in a neighborhood where white people live?—A. No; not altogether.

Q. Do you know whether or not white people live all along there in those houses?—A. Very few whites.

Q. Some?—A. Very few whites; there is one place that is practically all Indians, and that is right on that end of Rounsfield's cannery, a bunch of shacks there, and I don't know of a white person in there, and you get right back of this nest of boats there are a bunch of shacks, and there are practically all Indians living there.

Q. They own them?—A. No, sir.

Q. Who owns them?—A. I couldn't tell, I know some of them pay rent.

Q. But a great many of the Indians own their own homes themselves?—A. Some of them own their homes.

Q. And the others pay rent?—As far as I know, or agree to pay it.

Q. Now, Frank Williams, you say, reads and writes?—A. Yes, sir.

Q. Isn't that true of the Mathers?—A. I couldn't say.

Q. James Shields, how about him, can he read and write?—A. I don't remember.

Q. Is he well educated?—A. I don't think he is well educated.

Q. How about George Booth?—A. I don't know whether he writes or reads, he talks fairly good English.

Q. How about George Keegan?—A. I don't know whether he reads and writes. I know he is a hard customer to deal with.

Q. Now, Joseph Starr, does he own his own residence?—A. I don't know, I think J. R. Heckman owns that building.

Q. You know he pays Heckman rent?—A. Probably not, agrees to.

Q. You are not well acquainted with Ed. James?—A. I could tell better if I could see him, maybe I am well acquainted with him.

Q. But you don't know whether he reads and writes English or not?—A. No.

Q. You know Philip McKay?—A. I know McKay to be a pronounced Indian.

Q. Isn't he a shoemaker?—A. I don't know.

Q. Why don't you?—A. I never had occasion to have any shoes made for one thing, nor any repaired, and have never seen his shop, but this pair need to be repaired. [Shows him shoes to the judge.]

Q. Don't you know Phillip McKay wears good shoes?—A. I would swap with him if he does.

Q. Don't you know he reads and writes English and talks English?—A. No.

Q. Don't you know him?—A. I know him by sight, and I know him by his general reputation.

Q. You say all these people are Thlinkets?—A. No. I said the Thlinkets are a different race from the Tsimpsean, and the Thlinkets are not so advanced in civilization as the Tsimpseans.

Q. The Thlinkets are a native Alaska Indian?—A. Yes, sir.

Q. And they have resided around Ketchikan ever since you have been here?—A. As far as I know they are supposed to have originally originated around here, their ancestors; maybe they came from British Columbia, but the Tsimpsean Indian is a tribe that came from British Columbia originally.

Q. What do you know about that?—A. Well, I only know what I read and heard in regard to Father Duncan having migrated to Alaska with his tribe of Indians, the Tsimpseans.

Q. About 40 years ago?—A. Sometime ago.

Q. Nearly all of these young fellows have been born on this side?—A. I don't know that.

Q. You don't recall Joseph John?—A. Yes; I know the name; probably know the Indian; may be well acquainted, if I could see him. There are those Indians whose names I can't recall.

Q. Let me go back to James Shields. I skipped him. You know him?—A. Yes, sir; I have had quite a little trouble with him.

Q. You have had a good deal of trouble with a good many of these people, haven't you?—A. No.

Q. As a matter of fact, they don't like you any better than you like them?—A. I don't know as I had any ill-feeling toward them, but as my official duties have called me down to their pow-wows and drunks many times, it has made them mad by my butting into those; they don't like that and I don't blame them.

Q. Don't all these people belong to the Alaska Labor Union here?—A. I couldn't tell you. I am not a member, and you will have to talk to those who are members.

Q. But don't you think they are civilized?—A. As I have already stated the Thlinket Indians, as a whole, I don't consider civilized.

Q. Do you consider any of the Indians are civilized?—A. Why, yes.

Q. What particular Indians?—A. I couldn't say. I consider Frank Williams civilized.

Q. He is the only one?—No; he is not. There are a lot of Indians I know who are civilized whose names I can't call off-hand.

Q. These people all live here in houses?—A. Some on boats and shacks, scattered around.

Q. Don't you know James Shields is a fisherman?—A. I don't know the man.

Q. And has been superintendent for some cannery every year and works hard?—A. I don't know anything about that.

Q. I am talking about James Shields, the Indian. George Booth, you think, is only semi-civilized?—A. Yes, sir.

Q. Don't he talk English?—A. Yes.

Q. Can he read and write?—A. I don't know anything about his reading and writing. I haven't had any occasion to observe that.

Q. Where does he live?—A. Metlakatla, I believe.

Q. Do you know?—A. Back and forth on the road between here and Metlakatla. They will be in Metlakatla for a while and then over here—back and forth.

Q. They have their home at Metlakatla, that family?—A. They have an established business here.

Q. They are in Metlakatla if they are not kept here by business?—A. Yes, sir.

Q. Joseph John you don't know; Andy Moses, he is a Thlinket?—A. Yes, sir.

Q. Where does he live?—A. He used to live back of Dick Harris's.

Q. Where did he live about November, 1918?—A. I think, directly back of Dick Harris's store.

Q. His own house?—A. I don't know whether he owns it—a big one-room house. I took many a booze case out of there.

Q. You have taken many a booze case out of other houses around here?—A. That one in particular.

Q. I didn't ask you that.—A. Mostly Indians.

Q. Many a white man's house around here you have taken booze from?—A. I don't know of any white residents.

Q. Nor the Filipinos?—A. Yes, sir.

Q. So that it isn't the Indians who drink all the liquor?—A. We were dealing with Indians, so I thought I would tell you about them.

Q. I am trying to make a comparison.—A. I have taken more booze cases out of Indians' houses, by way of comparison, than out of white residences.

Q. They are easier misled than the white?—A. No doubt of it, to my mind.

Q. Ed James you don't know?—A. No; I don't say I don't know him; in all probability I know him if I could see him.

Q. Robert Young?—A. Robert Young; well, probably, if I could see any of them, I would know them well.

Q. You don't consider that James Sales and his wife were residents of Ketchikan?—A. No, sir.

Q. Didn't own property there?—A. I believed they owned property there.

Q. Owned a dwelling house here, didn't they?—A. Yes, sir.

Q. And Sales, James Sales is a cannery foreman?—A. He has been a cannery superintendent.

Q. And was in 1918?—A. I think in 1918, if I am not mistaken, he was at Roe Point, not occupying his residence here.

Q. And prior to that time he had been a cannery superintendent and foreman at other canneries?—A. Well, let me see; not to my knowledge; he had worked around canneries, but—

Q. But when he got through working he came back to Ketchikan?—A. No, sir; he didn't.

Q. Hadn't he come back to reside here?—A. I know he didn't do that; he went down to Seattle.

Q. As superintendent of the cannery, he has to superintend the transportation and sale of the pack?—A. I don't think he acts in that capacity; he was with the Northwestern Fisheries at Roe Point, and the Northwestern Fisheries have men who handle their pack. They have their officers in Chicago and men who sell their pack.

Q. And he owns his house and came back and lived here for a time this year?—A. Not to my knowledge.

Q. You don't know whether he has or not?—A. I say I don't know a thing about it; he didn't, to my knowledge, and I don't believe he did.

Q. I am not asking what you believe in regard to Mr. Sales; I am asking you what you know about it.—A. I know he was stopping down to Wakefield's for a time when he was here temporarily.

Q. But you don't know he resided in his own house at that time?—A. And I don't believe he did.

Q. You are a very strong partisan, Mr. Sharpe?—A. Yes, sir.

Q. When you think you are right you just think it as strong as any of the rest of us?—A. You bet you.

Q. Now you say some of these Indians told you they voted for Wickersham?—A. Yes, sir.

Q. Did they come and hunt you up and tell you this?—A. No, sir; I hunted them up.

Q. And asked them?—A. I certainly did.

Q. What did you do that for?—A. To find out how they voted.

Q. How extensively have you done that?—A. I did that only in a few instances.

Q. You have been industrious in helping to gather up the witnesses in this case, haven't you?—A. Yes, sir.

Q. You and that man, Billie Dickinson?—A. You will have to speak to him.

Q. I happened to pass you down the street and saw you and Dickinson talking.—A. That would be hearsay. I am not going to tell you what I was doing, because it particularly related to you. If you want it in the record, I will give it to you.

Q. However, I think one can imagine what it was without putting it in the record and making George pay for it. As a matter of fact, you have been industrious in gathering up evidence for the contest and doing everything you could?—A. The last couple of days.

Q. Everything in the way of shaping up for them, finding the Indians, consulting with them?—A. I served the subpoenas.

Q. Did you get pay for it?—A. I refuse to answer that question.

Q. Why?—A. Because I don't think you are entitled to know.

Q. You are a United States deputy marshal?—A. Yes, sir.

Q. And it is your business to take and serve papers?—A. Yes, sir.

Q. And have the fees paid?—A. When they are issued by a court.

Q. But in this case you don't charge the fees? I am asking you that because every deputy marshal who has served papers for me has charged me like blazes for his services?—A. I don't blame them; I would do the same.

Q. But you don't on the other side?—A. When process is issued by a court and returnable to that court and the fee books specify that the serving of that process has to be paid.

Q. But you have not charged for services in this matter?—A. Not yet; I am not done with it.

Q. Are you going to?—A. I don't know; I am going to look it up and find out.

Q. It has been testified to here in your presence that there were something like 30 Indians who voted here?—A. Yes, sir.

Q. How many of them have you talked to?—A. Very small portion of the 30.

Q. Why have you made it small?—A. Why, I didn't think it necessary to talk to them all; some of them couldn't be located, for one reason.

Q. As a matter of fact, you talked with those only you thought voted for Wickersham and not any of them who voted for Sulzer?—A. That is not right.

By Attorney GRIGSBY:

Q. Wickersham asked you one general question a few minutes ago, in which he said—he asked you whether you had been assisting in shaping up the testimony of the witnesses; have you done any shaping up testimony?—A. Every Indian I talked to I have just told him to tell the truth in the matter.

By Judge WICKERSHAM:

Q. You served as a guard in the jail during the Republican administration?—A. No, sir; I did not; I served under a Republican deputy serving under a Democratic administration.

W. B. SHARPE.

Subscribed and sworn to before me this 8th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

At 10 a. m. October 11, 1919, hearings continued.

Attorney GRIGSBY. You made an offer to present the other day certain documents that you didn't have.

Judge WICKERSHAM. Well, one of the Mather boys has it.

Attorney GRIGSBY. No; it was some record.

Judge WICKERSHAM. Just citizen papers, that is all, that I turned over to the Mathers.

DEPOSITION OF BEN RIDLEY.

BEN RIDLEY called and sworn.

By Attorney COSGROVE:

Q. What is your name?—A. Ben Ridley.

Q. Where do you live?—A. Right here in Ketchikan.

Q. Are you an Indian?—A. Yes; Indian.

Q. Are you married?—A. No; single.

Q. What is your business?—A. Working in the mill; for four years now.

Q. Where were you born?—A. Metlakatla.

Q. Did you vote election day last November?—A. For Wickersham and J. L. Jones. I vote Wickersham and J. L. Jones.

Q. You voted for Wickersham and J. L. Jones?—A. Yes.

Q. How did you come to vote for Wickersham and Jones?—A. Well, I vote as I get my registration card.

Q. Were you called to the Army?—A. I have got registration card.

Q. You have got registration card?—A. I have that.

Q. How did you come to vote—anybody come up here with you?—A. Lots of our people be voting here before I come in.

Q. Did you come alone, or was somebody with you?—A. Alone.

Q. Did anybody tell you to come here?—A. No; myself.

Q. Any man ask you to come? You had registered?—A. I think, I did it.

Q. And who told you you were entitled to vote?—A. I think I am a citizen after that.



Q. Did all those other Indian boys do that too?—A. Lots of boys over here vote that election day.

Q. And boys who live in Metlakatla? Did the other boys you know who voted here live in Metlakatla?—A. I think they voted over there themselves.

Q. When was that election?—A. I think about last fall.

Q. At the time you voted for Wickersham and Jones?—A. Yes.

Q. And you were living in Metlakatla at that time?—A. No; over here, here pretty near seven years.

Q. Did you ever live in Metlakatla?—A. Born there, but I live here almost seven years now.

Q. Continuously?—A. Yes. Only visit there once in awhile.

Q. You call Ketchikan your home?—A. Ketchikan, I call Ketchikan home.

Q. Have you talked with anybody about your giving testimony here? Have you talked with any man about coming up here this morning? Who told you to come up here?—A. I got paper from Winston.

Q. Did you talk with Mr. Winston about testifying here?—A. No.

Q. Anybody else?—A. A man was down there last Monday, I think it was last Monday and give me paper in the mill.

Q. Did you talk with anybody else about your testimony—about what you were going to say?—A. No.

Q. Where do you live in Ketchikan?—A. Live down in Brown's house, down on Thompson's Dock.

Q. Are you alone there?—A. Sister and brother-in-law.

Q. How many in the family?—A. My sister has two children, and two sisters in the same house; other one married and other one single.

Q. How much of a house is it?—A. About a small house.

Q. One room?—A. Yes.

Q. Just one room?—About three rooms in it.

Q. What tribe of Indians do you belong to?—A. Tsimpsen.

Q. Have you no chief over on this side of the line?—A. No; have no chief in Metlakatla.

Q. How long had you been in town just before election last fall?—A. I stay here most of the time.

Q. How long?—A. Almost seven years; I stay in the city here.

Q. You have been out of town some of the time, haven't you, during this seven years?—A. I was down below before.

Q. You were over to Metlakatla some of the time?—A. Just for a visit once in a while; didn't stay there.

Q. How long had you been in town without leaving town just before election?—A. I don't know; it was last fall.

Q. You go over to Metlakatla and stay two or three months at a time?—A. I visit once in a while and stay most of the time around here.

Q. You stay two or three months on a visit, don't you?—A. Almost a month, I think.

Q. You have got relatives in Metlakatla?—A. My mother and grandmother.

Q. Don't you know just how long you were here before election day?—A. I know that.

Q. Do you know Bob Oliver?—A. Bob Oliver?

Q. Yes.—A. No; who is he—a native?

Q. He is not a native; at least, so far as I know, he isn't.

By Attorney GRIGSBY:

Q. This gentleman [indicating].—A. Oh, that him. I know him since last June.

By Attorney COSGROVE:

Q. Do you belong to the Alaska Labor Union?—A. Yes.

Q. Were you down there last night?—A. No; I wasn't down there.

Q. Did you talk with Oliver or anybody from the Labor Union about this case?—A. No.

Q. It never occurred to you to mention it?—A. No.

Q. When was the paper served on you?—A. Last Monday morning when down to the mill.

Q. Did you show the paper to anybody?—A. No; I put myself in pocket.

Q. Never showed it to anybody?—A. No.

Q. Never tell anybody you come up here?—A. From down in the mill I tell him I would be up here 15 minutes, the only man I speak to.

By Attorney GRIGSBY:

Q. Did anybody come with you to the polling both when you voted?—  
A. When?

Q. When you voted for Wickersham last November.—A. No; all alone here.

Q. Has anybody been down to the place you work to talk to you since they served you that subpoena, at all?—A. I think I saw in paper to come.

Q. Answer my question; has anybody talked with you at all?—A. No.

Q. Didn't Mr. Wickersham talk to you?—A. No.

Q. Did you talk to Mr. Wickersham?—A. I know since last——

Q. Did——

Judge WICKERSHAM. Wait, let him answer the question.

Attorney GRIGSBY. I will do the waiting and you do the objecting.

Q. Do you know Mr. Shoup?—A. No.

Q. Did you ever talk with Mr. Oliver?—A. No.

Q. Who marked your ballot for you when you voted?—A. I don't know, I know in here.

Q. Mr. Hunt?—A. I think Mr. Hunt, only man I know in here.

Q. One of the judges?—A. I don't know judge.

Q. He was one of the officers running the election here was he?—A. Yes; Hunt was here.

Q. And helped you to mark your ballot?—A. No; I think he mark it down for me.

Q. Did you tell him how to mark it?—A. No.

Q. You didn't tell him how to mark it?—A. No.

Q. Did you tell him who you wanted to vote for?—A. I sign my name I think.

Q. On what?—A. On the Wickersham voting papers.

Q. You signed your name on the Wickersham voting paper?—A. Yes.

Q. In a book?—A. On paper; piece of paper.

Q. You wrote your name down?—A. Yes.

Q. And Mr. Hunt marked your ballot for you?—A. I think it was him.

Q. Did you tell him where to mark it?—A. No.

Q. Did he tell you where to sign your name?—A. No.

Q. Can you read and write the English language?—A. Yes.

Q. Good?—A. Not so good, my education not so good, but I can read and write.

Q. Why was it necessary for Mr. Hunt to mark your ballot for you?—A. I don't know what you say.

Q. Did anybody go with you, Mr. Hunt and you, to the booth where you marked your ballot?—A. I think the man Hunt, on same table as here, and he put a mark on my voting paper.

Q. You were born in Metlakatla were you?—A. Yes.

Q. And you claim you live in Ketchikan?—A. Yes; up here.

Q. Did you ever live at Saxman?—A. No.

Q. You are working in the sawmill now?—A. Pretty near four years now.

Cross-examination by Judge WICKERSHAM:

Q. Ben, how old are you?—A. Over 23, going on 24.

Q. You say you were registered for the war?—A. Yes.

Q. Where were you registered?—A. Down to the customhouse office I think.

Q. Here in Ketchikan?—A. Here in Ketchikan.

Q. Have you got a registration card?—A. I think I have got it at home.

Q. You haven't got it here?—A. I think I have got it home or somewhere.

Q. Weren't a good many of the native boys here registered?—A. I think pretty near all of them.

Q. Did some go to war?—A. One boy from Metlakatla, but he didn't go to war.

Q. Where did he go?—A. To the training camp down there.

Q. Metlakatla is here in Alaska?—A. Yes.

Q. And you were born in Alaska?—A. Yes, born in Alaska.

Q. And you have lived in Alaska ever since?—A. Yes.

Q. Where did you go to school, Ben?—A. Down to Tacoma, Wash.

Q. Down where?—A. Down below to Tacoma.

Q. The Cushman school in Tacoma?—A. Yes.

Q. How long did you go to school there?—A. For three or four years.

Q. Did you go to school in Metlakatla before that?—A. I was there a little while, but didn't go—stay there.

Q. Where else did you go to school, is that all?—A. I think that is all; didn't have much school in my life.

Q. Do you read English?—A. Read a little.

Q. Do you ever read the papers?—A. Yes; read the papers.

Q. What papers?—A. Ketchikan Times and some other books.

Q. And some other books?—A. Yes.

Q. Do you subscribe to the paper?—A. No; I haven't subscribed.

Q. It comes to the house?—A. Yes.

Q. Where you live?—A. Yes, but I buy it in town.

Q. What books do you read, what magazines?—A. Some magazines.

Q. What magazines do you read?—A. Popular Mechanics.

Q. The Popular Mechanics. What is your business, Ben?—A. I have none.

Q. Do you work?—A. Down in the mill the last four years.

Q. What sort of a mill is it?—A. Working all over there.

Q. It is a sawmill, is it?—A. Yes, sawmill.

Q. What are you doing in the sawmill?—A. I work all over, this year I went on trimmer saw. I was on the cleaver two seasons.

Q. You worked on the cleaver two seasons. Do you know Robert Ridley?—A. Yes; he is my first cousin.

Q. He is your cousin?—A. Yes.

Q. And who is Mariam Ridley?—A. Mariam?

Q. Yes.—A. Mariam Ridley.

Q. She is not here now?—A. I don't know whether she is in town, down below I think.

Q. Robert Ridley is a cousin of yours?—A. First cousin.

Q. Does he live in Ketchikan also?—A. He has got a home here.

Q. And has a family?—A. Has about three sons and two daughters.

Q. Now, over to Metlakatla, any of the natives over there have a chief?—A. No; don't have any chief now.

Q. Father Duncan established Metlakatla, didn't he?—A. Yes.

Q. Some natives came over from Old Metlakatla, British Columbia, to New Metlakatla in Alaska?—A. Over 30 years since they come over in America.

Q. And Father Duncan established a new native village in New Metlakatla?—A. Yes.

Q. Father Duncan was a member of the church?—A. Yes; a minister.

Q. Minister; and he established a sawmill there also?—A. Sawmill and cannery.

Q. And the natives have an interest in that sawmill and cannery?—A. Didn't have when Father Duncan was there, but have it now since he died.

Q. Do they have a school there?—A. Big as any school in Alaska now.

Q. And a church?—A. And a church.

Q. But no chief?—A. No chief.

Q. And no tribal relations?—A. No.

Q. Live like white people?—A. Yes; like white people now.

Q. They live in their own homes?—A. Yes; own homes.

Q. What kind of homes have they built?—A. As well as over here; good, nice houses there to live in.

Q. And you have had no home there for about seven years?—A. Yes.

Q. And where do you live now—this seven years?—A. Over here in Ketchikan.

Q. Here in Ketchikan?—A. Yes.

Q. You say you voted on election day, November 5 last?—A. Yes; I think November 5.

Q. You say nobody come with you to vote; you come by yourself?—A. Yes.

Q. Where did you come from?—A. I was around town when I come in here.

Q. Do you belong to the Alaska Labor Union?—A. Yes; joined last spring. I think.

Q. How many of the native men belong to that?—A. I don't know.

Q. Did somebody challenge your right to vote when you got here—object to your voting?—A. No.

A. Nobody objected?—A. No.

Q. You signed one paper when you voted?—A. Yes.

Q. Did you sign your own name?—A. I put a mark—cross mark.

Q. Can you write?—A. Yes.

Q. Who gave you a ballot when you come here to vote that day?—A. I don't know; I think I took it myself on table, or somebody else; I can't remember.

Q. The ballot or piece of paper with a lot of names printed on it?—A. Yes.

Q. You could read the names on it? You could read many names on it, could you?—A. Yes.

Q. And you put a mark opposite my name? Or you put a mark opposite Mr. Sulzer's name?—A. Over you.

Q. On my name?—A. Yes.

Q. And you voted?—A. Yes.

Q. You say you are 23 years old?—A. Over 23, nearly 24.

Q. Is there any chief among the native people here in Ketchikan?—A. Well I don't know.

Q. You don't recognize any chief, do you?—A. No.

Q. Uncle Sam is your chief?—A. Yes; Uncle Sam is my chief.

Q. Are you a citizen of the United States?—A. Ought to be; I was born in America.

Q. Born in Alaska?—A. Yes.

Q. Your folks came to Metlakatla from old Metlakatla with Father Duncan?—A. Yes.

Q. Is Father Duncan dead now?—A. Yes; last summer, I think.

Q. Now, there are a good many native people living here in Ketchikan?—A. Yes.

Q. Did they have, at any time, any Indian government here?—A. No.

Q. They live under the white man's government?—A. Yes.

By Attorney GRIGSBY:

Q. Your name is Ben Ridley?—A. Yes.

Q. What is your cousin's name?—A. My first cousin?

Q. The one we are talking about.—A. Robert Ridley.

Q. Is he in town?—A. I think he is in town.

Q. What office was Mr. Wickersham running for when you voted for him?—

A. Delegate from Alaska to Congress, I think.

Subscribed and sworn to before me this 11th day of October, 1919.

\_\_\_\_\_  
Notary Public.

#### DEPOSITION OF GEORGE BOOTH.

GEORGE BOOTH called and sworn.

By Attorney GRIGSBY:

Q. What is your name?—A. George Booth.

Q. Where do you live, George?—A. Well, my home is at Metlakatla.

Q. Did you vote at the election last November?—A. Yes, sir.

Q. Where was your home at that time?—A. Well, I live here in Ketchikan two years before the vote come up.

Q. For how long?—A. November, last year; last fall.

Q. Had you been living in Ketchikan all the time for two years prior?—A. Yes; since that time I live here; since that time.

Q. When did you move to Ketchikan?—A. Well, I wasn't got home here; just rent house down here, right end of village.

Q. When did you rent that house?—A. Pretty near three years.

Q. You have been living there all the time for three years?—Q. No; sometimes I went out to Metlakatla for two or three months, and come back here.

Q. Who told you to say that Ketchikan has been your home for the last three years? Who told you to say it?—A. Nobody told me; but I didn't say I am staying here for working.

Q. You what?—A. I stay here for working; a little better place here for work.

Q. Have you talked to anybody since you were up talking to me about this?—A. No.

Q. Nobody?—A. I was talking with Mr. Wickersham, here.

Q. When?—A. Day before yesterday I think I remember.

Q. Were you talking to him about where you live?—A. Yes; he was asking me question where I live, so I told him I live here before I vote for him.

Q. You told him first your home was in Metlakatla, didn't you?—A. Yes.

Q. And when I was talking with you in my room in the Stedman Hotel you told me your home had always been in Metlakatla?—A. No; I remember what I talk. I told you I live two years before I vote.

Q. You told me that?—A. Yes.

Q. And I subpoenaed you right away and gave you a paper?—A. Yes; you did.

Q. Didn't you tell me, George, when you were up in my room the other day in the Stedman Hotel that your home was in Metlakatla last November on election day?—A. I told you?

Q. Didn't you tell me?—A. No; I didn't; I told you I was here in November.

Q. Where do you consider your residence?—A. What do you mean?

Q. Don't you know what residence is?

By JUDGE WICKERSHAM. Your home?

By Attorney GRIGSBY. Never mind; I am examining the witness.

Q. All right; where do you consider your home is?—A. I can't understand that very well.

Q. You don't understand home?—A. No—yes.

Q. Are you married?—A. Yes.

Q. Where is your family?—A. Right here in Ketchikan.

Q. How long have they been here?—A. I just bought a house here, going on four weeks now.

Q. How long has your family been here in Ketchikan?—A. Have been here since I married here, going on four years.

Q. You and your family have been in Ketchikan all the time?—A. Here all the time—sometimes went out fishing and come back here, and go to Metlakatla.

Q. You have made your home in Ketchikan?—A. Yes; now, just start now.

Q. You just started now to make your home in Ketchikan?—A. Yes.

Q. You have got a house in Metlakatla?—A. Well, my father has got a house there.

Q. Have you got a house there?—A. No.

Q. Did you live in your father's house?—A. Yes; before that.

Q. Where were you married?—A. Right here in Ketchikan.

Q. Where was your wife born?—A. Born in Alaska.

Q. What part?—A. Right here, Convenient sawmill.

Q. At the time you were married you lived at Metlakatla?—A. No; I live after I married here.

Q. Before you were married where did you live?—A. I was living at Metlakatla, but I wasn't staying there altogether. Most of my time I spent down below.

Q. Down below?—A. Yes.

Q. Where is that?—A. In Seattle, most of the time.

Q. Most of the time for the last four years?—A. Well, for my life.

Q. All your life?—A. Yes.

Q. Where were you last summer?—A. I was first at Yes Bay cannery.

Q. How far is that from Ketchikan?—A. Somewhere around 39 miles.

Q. Thirty-nine miles?—A. Yes.

Q. And when did you go up there to fish?—A. I left here in July.

Q. Well, how long did you stay there? A. Well, about two or three months.

Q. Well, when did you come back?—A. About two or three weeks ago.

Q. Well, I mean a year ago this summer?—A. Until October.

Q. Until what time in October?—A. I couldn't remember; somewhere around the middle of October when I come down here.

Q. And when you came down here did you rent a house?—A. Yes; same house I rented before.

Q. The same house as what?—A. The same house I rented before.

Q. The same house you were renting before?—A. Yes.

Q. You went up to Yes Bay in July a year ago last summer?—A. Yes.

Q. Where did you go from, from here or Metlakatla?—A. I come from there to here, to Ketchikan, and I went out to visit at Metlakatla.

Q. Now, you went up to Yes Bay to fish and to work around the cannery a year ago last July?—A. Yes.

Q. Where did you go to Yes Bay from; were you here in July?—A. Just went out to Metlakatla to visit and came back here.

Q. Now, before you went to Yes Bay, where did you go to Yes Bay from, Metlakatla or Ketchikan?—A. Ketchikan.

Q. And how long had you been in Ketchikan just before you went to Yes Bay?—A. Well, close to two years.

Q. All the time?—A. Not all the time.

Q. I am asking you how long you stayed in Ketchikan at that time?—A. But I figure all, maybe I put together I be stay here, maybe one year—so little.

Q. You went up to Yes Bay from here?—A. Yes.



Q. How long had you been here in Ketchikan at that time?—A. Well, I couldn't remember; of course, I have been traveling all the time.

Q. You don't know how long you had been here at that time?—A. No; but I stay here; it is where I come here all the time.

Q. And I thought you said it is Metlakatla where you stayed?—A. Before that—before two years—I say in Metlakatla before that.

Q. Did you take your family with you up to Yes Bay?—A. Yes, sir.

Q. And while you were gone you didn't have a house rented, did you?—A. Up to Yes Bay.

Q. Here, did you give up your house?—A. Yes, I give up.

Q. And came back the middle of October?—A. Yes; last year.

Q. Have you got a brother?—A. Yes.

Q. Is he here?—A. No; I don't think.

Q. Where is he?—A. I think he is out to Metlakatla, but I have a first cousin, Benjamin Booth, here in Ketchikan; I think he is in town now.

Q. Do you know who was in the room with us when you were talking to me?—A. Yes.

Q. Who?—A. Sharpe.

Q. He was there all the time was he?—A. Who, Sharpe?

Q. Yes.—A. Yes.

Q. And you were there?—A. Yes.

Q. And as soon as I got through talking with you I gave you a subpoena, didn't I?—A. Yes, sir.

Q. And you told me there, at that time, that when you voted last November that your home was in Metlakatla?—A. I was to work.

Q. Did you or did you not?—A. No; I didn't.

Q. You did not?—A. No.

Q. No? Who told you you had the right to vote here?—A. Well, I tell you, some of my friends; anything I don't know, I think some of my friends, white men, and ask them what is right.

Q. That is why you did, but who told you?—A. Nobody told me, I know I have got right to vote here.

Q. Nobody told you you had the right to vote here?—A. Some of my friends.

Q. Some friends did tell you?—A. Yes.

Q. Who was it?—A. I remember Mr. Mather, I was talking to him about that; I asked him about Mr. Wickersham.

Q. Just talked to Mr. Mather?—A. Mr. Oliver I remember I talked to him and just explained to me how he is, who he is, so I think, myself, he is the only man. He promise us people to help us out.

Q. And Bob Oliver told you, you had a right to vote here?—A. He is the only man.

Q. Did Mr. Hunt tell you, you had a right to vote here?—A. I think so.

Q. And who brought you up here to the polls?—A. Nobody.

Q. Who marked your ballot for you?—A. Myself.

Q. Did anybody help you?—A. Yes, I think it was Mr. Hunt.

Q. Mr. Hunt helped you?—A. Yes.

Q. How old are you?—A. Going on 40.

Q. You are not 40?—A. Somewhere around 40, I think my old, don't remember exactly.

Q. And you are 40 years old and born in Metlakatla?—A. No.

Q. Where were you born?—A. I was in State of Washington when Seattle was a village, the story my old mother tell me.

Q. And your father went down there to visit, or rather your mother?—A. Yes.

Q. And she lived in British Columbia?—A. Yes.

Q. And after you were born there she went back to British Columbia?—A. Yes, to British Columbia.

Q. And how long after that did your father come to Alaska?—A. They come over here somewhere around, when I was 10 years old, I think.

Q. And your father never was naturalized?—A. What is that?

Q. Never took out citizen papers?—A. No.

Q. Who did you vote for last November for Delegate to Congress?—A. Mr. Wickersham.

#### Cross-examination by Judge WICKERSHAM:

Q. George, you were born in Seattle, down on the sound?—A. Yes, sir.

Q. You worked in Seattle a good many years?—A. Yes, sir. For S. F. Norton & Co.

Q. How many years did you work for them?—A. I worked five years, solid.

Q. And for S. F. Norton what did you do?—A. Buying furs all around Seattle.

Q. Did you do any other kind of work?—A. The first time I drive dray all around the town—buy skins around town—and after a while they took me into the store to wrap up bundles.

Q. Acted as a clerk?—A. Yes.

Q. You worked five years for S. F. Norton & Co., and did you work anywhere else in Seattle?—A. Around on the boats.

Q. How many years?—A. I think pretty nearly three years.

Q. So that you worked in Seattle for about eight years?—A. Yes.

Q. You say you have been here three years in Ketchikan?—A. Yes.

Q. About two years before election?—A. Yes. When I went up to Yes Bay last summer?

Q. No; when you went up to Yes Bay last summer before this summer—that is, the summer of 1918—did you go up there to work?—A. Yes.

Q. Didn't go up there and live?—A. No.

Q. Did you intend to come back here when you went up there?—A. Yes.

Q. You claimed Ketchikan as your home all the time?—A. I claim better place to stay.

Q. Does anybody live at Yes Bay the year around?—A. Yes; I know superintendent, Mr. Nergward.

Q. Is he the only man living there all the year?—A. Man and his brother.

Q. Nobody else? Well, you went to work for the season?—A. Yes.

Q. Then when you came back home you went to the same place you went from; to the same house?—A. Yes.

Q. A house you rented?—A. Yes.

Q. You have bought a house, you say, here in Ketchikan?—A. Just bought it.

Q. What house is that?

Q. What house is that?—A. Eaten's house.

Q. When did you buy that, George?—A. Three weeks ago.

Q. How much did you pay for it?—A. \$450.

Q. Have they got any chief over to Metlakatla?—A. No; I don't never hear.

Q. Never heard of one over there?—A. No.

Q. That place was established by Father Duncan?—A. Yes.

Q. There is a church there?—A. Yes; church.

Q. And a schoolhouse?—A. Yes, sir.

Q. And waterworks?—A. Yes.

Q. And how do the people live there, in houses or tents?—A. Houses.

Q. What kind of houses?—A. Just like this house here; some better houses.

Q. Just like this house you are in here? This belongs to the city, but they own their own homes?—A. Yes.

Q. The native people that live here in Ketchikan, do they own their own homes?—A. I think so.

Q. The Mathers own their homes?—A. Yes; I know him.

Q. And a good many more of them own their own homes?—A. Yes, sir.

Q. Have they got any chief in Ketchikan?—A. I couldn't say.

Q. You have got no chief?—A. No.

Q. You have no chief but Uncle Sam and the Government officers?—A. That is the only man.

Q. When you left here and went over to Metlakatla to visit you left your house here?

Attorney GRIGSBY. He couldn't take it with him.

A. I live in here.

Q. And came back to your house when you got through visiting?—A. Yes, sir.

Q. Were you registered as a United States soldier in this last war?—A. Yes, sir.

Q. Where did you register?—A. Right down in the customhouse office.

Q. Have you got a registration card?—A. I have it now.

Q. Here now?—A. Right here in my pocket.

Q. Let me see it, if you don't object.—A. I have got everything here.

Q. I offer this registration card certificate in evidence.

Attorney GRIGSBY. What is the object of it, Judge? I may object.

Judge WICKERSHAM. The object of it is to show that he is registered under the law as a United States soldier, if called upon, on the 28th day of October, 1918, by the local board here in Ketchikan.

Attorney GRIGSBY. May I see it?

Judge WICKERSHAM. Yes.

Attorney GRIGSBY. Do you contend that this is a proof of citizenship?

Judge WICKERSHAM. It goes as far as it represents itself only; it is not the only proof.

Attorney GRIGSBY. It is the only proof?

Judge WICKERSHAM. It is not the only proof.

Attorney GRIGSBY. Is it any proof?

Judge WICKERSHAM. We will discuss that later; that is a matter of law.

Attorney GRIGSBY. We object to the admission of the registration card as being incompetent for the purpose for which it is offered.

Judge WICKERSHAM. I will read this into the record, so as not to take it away from him: "Registration certificate. To whom it may concern, greetings: These presents attest that, in accordance with the proclamation of the President of the United States and in compliance with law, George Booth, of Ketchikan, Alaska, has submitted himself to registration and has by me been duly registered this 28th day of October, 1918, under the supervision of the local board designated on the back hereof. M. S. Dobbs, registrar." And on the back of the card is this: "Local board No. 4, city of Ketchikan, Alaska."

By Judge WICKERSHAM:

Q. George, I notice here a Red Cross receipt.—A. Yes, sir.

Q. Was that given to you?—A. Yes.

Q. You paid the Red Cross agent here?—A. I got that one down to the saw-mill; they take off my wages.

Q. And you paid that to the Red Cross Society?—A. Yes, sir.

Q. Did you have any Liberty bonds?—A. No, sir.

Q. Didn't have any Liberty bonds?—A. No.

Q. Are you a member of the Alaska Labor Union?—A. Yes, sir.

Q. How long have you been a member of the Alaska Labor Union?—A. Since the union started.

Q. You had a license to fish from the Food Administration?—A. Yes, sir.

Judge WICKERSHAM. I have here a fisherman's license issued to George Booth, dated June 4, 1918, under the Food Administration act, which is too long to introduce in evidence.

Q. Now, George, what has been your business heretofore?—A. Fisherman.

Q. Fisherman?—A. Yes.

Q. And did you ever run on a steamboat?—A. Yes.

Q. What do you do on steamboats?—A. Sometimes I take deck, then down below, fireman.

Q. Fireman sometimes?—A. Yes.

Q. Did you ever have any papers?—A. Yes.

Q. What kind of papers did you have?—A. Not papers on the boat; just belong to the firemen's union and deckhands' union.

Q. You belong to the firemen's union and deckhands' union, and what else?—

A. And seamen's union.

Q. Did you work at all those trades?—A. Yes.

Q. Where?—A. Down below.

Q. Down in Puget Sound?—A. Yes.

Q. In the State of Washington?—A. Yes.

Q. Did you get papers from the Government as a seaman or as a fireman?—

A. Yes; I get them from the headquarters.

Q. Where are those papers?—A. I haven't got them with me; they are on my boat.

Q. Have you got a boat?—A. Yes, sir.

Q. Where is your boat, George?—A. My nephew has it; just changed masters.

Q. Were you master of the boat?—A. Yes, sir; just changed masters on boat.

Q. What kind of a boat?—A. Seine boat; 12-ton boat.

Q. How much is it worth; what did it cost?—A. \$4,400.

Q. Did you ever vote down in Seattle?—A. Yes; in the city election.

Q. At the city election?—A. Yes.

Q. When?—A. At the time I was working for the Norton Co.

Q. Before you came to Ketchikan?—A. Yes; before I came to Ketchikan.

By Attorney GRIGSBY:

Q. George, you said your father and mother were born in British Columbia?—

A. I think so.

Q. They told you?—A. Yes; they told so.

Q. And were your father and mother both in Seattle when you were born?—

A. Yes; they are.

Q. When you were born down there?—A. Yes.

- Q. They were there on a visit?—A. Yes; picking hops. or something like that.  
 Q. And went back to British Columbia?—A. Yes.  
 Q. And when you were 10 years old you came to Alaska?—A. Yes.  
 Q. And how did you go to work to get this license from the Food Administration; did you make application for it?—A. No; I don't think so.  
 Q. How did you get it?—A. They questioned me where I was born.  
 Q. Who did?—A. Man in the office.  
 Q. Where?—A. Over here.  
 Q. Who was he?—A. I couldn't tell; I don't remember his name.  
 Q. Was it Mr. Gunnison?—A. I think so.  
 Q. And he asked where you were born and where you lived?—A. Yes.  
 Q. And what did you tell him?—A. I belonged in Metlakatla.  
 Q. You told him where you were born, and that you lived in Metlakatla?—  
 A. Yes.

Attorney GRIGSBY. We offer in evidence this document, which the judge said was too long to introduce. I will read it into the record unless you want me to take it away from the boy.

(Document copied into the record by the stenographer, as follows:)

"Not transferable. No. S. 054202. United States of America, Office of United States Food Administrator. Fisherman's license. License is hereby granted to George Booth, of Metlakatla, Alaska, to engage in the business of catching and distributing salt water fish, shellfish and crustaceans. This license is subject to revocation at any time for violation of the rules and regulations prescribed by the President of the United States or by the United States Food Administrator, under the direction of the President, or for violation of any of the provisions of the act of Congress under which this license is issued. This license, and the rules and regulations issued thereunder, shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated and the fact of such termination shall have been proclaimed by the President. Dated June 4, 1918. United States Food Administration, by Herbert Hoover, United States Food Administrator." (Indorsed on back are the initials, etc., as follows:) "AEM, George Booth (Metlakatla, Alaska), care of Hon. R. A. Gunnison, Federal food administrator, Juneau, Alaska."

Q. Do you know under what law that was issued?—A. Sir.

Q. Do you know under what law that was issued?—A. I don't understand.

By Judge WICKERSHAM.

Q. George, didn't your people come from Loring?—A. Well, I couldn't very well tell you.

Q. What do you know about that?—A. Just the story.

Q. Who told you the story?—A. My old people. Come from Loring, some trouble there, I don't know what that is.

Q. Wasn't your grandfather born in Loring?—A. I couldn't say.

Q. Was your father born in Loring?—A. I don't think so.

Q. Are you sure about that?—A. Yes, by the story my old people told, don't know how many generations from that they come from Loring.

Q. They were Loring people?—A. Yes.

Q. Loring is where they lived?—A. Yes.

Q. And the story is that your people come from Loring and went South, and then went on further South and you were born in Seattle?—A. Yes.

Q. And you came back to Alaska?—A. Yes, sir.

By Attorney COSGROVE.

Q. Do you know Bob Heckman?—A. Yes, sir.

Q. He established the town of Loring, didn't he?—A. Yes.

Q. Are you any relation to Bob?—A. No, not that I know of.

GEORGE BOOTH.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL]

WILL H. WINSTON, *Notary Public*.

#### DEPOSITION OF HENRY SCHAFER.

HENRY SCHAFER called and sworn.

By Attorney COSGROVE:

Q. What is your name.—A. Henry Schafer.

Q. Where do you live, Mr. Schafer?

Judge WICKERSHAM. I object to the taking of the deposition of this witness, because no notice has been given to me of the taking of his deposition.

Attorney GRIGSBY. I think I gave notice, Judge.

Judge WICKERSHAM. There is no notice for Henry Schafer; there is a notice here for J. Schafer, and I object to the taking of his deposition. I haven't had any notice; it is a surprise to me. No; I am mistaken; his name is here. I withdraw my objection.

By Attorney COSGROVE:

Q. Where do you live, Mr. Schafer?—A. On Gravina Island.

Q. How long have you lived there?—A. Oh, about four years now.

Q. How many?—A. Now, over five years.

Q. And where did you come from when you moved to Gravina?—A. From Ketchikan.

Q. And how long did you live in Ketchikan?—A. One year.

Q. And where did you come from when you came to Ketchikan?—A. From Valdez, Alaska.

Q. How long did you live in Valdez?—A. I guess, off and on in Valdez, I lived about three years there.

Q. And when you moved to Valdez, where did you come from?—A. From Cordova.

Q. And when you went to Cordova, where did you go from?—A. I believe I come from Nome.

Q. Did you ever live in Prince Rupert?—A. No.

Q. Were you ever in business there?—A. The boys lived there and had an interest in the business there they run.

Q. You never lived there yourself?—A. No.

Q. Are you an American citizen?—A. Yes, sir.

Q. Naturalized?—A. No.

Q. Born here?—A. I have been naturalized through my father, when he come from the old country he wasn't of age.

Q. Did you ever take out any naturalization papers in British Columbia?—A. No.

Q. Did you ever make application for any there?—A. No.

Q. Where was your father naturalized?—A. In Kansas.

Q. Did he get his second papers there; was he made a full citizen?—A. Yes.

Q. How old were you at that time?—A. I was about 13 or 14 years.

Q. Did you vote in this precinct at the election in November, 1918?—A. Yes, sir.

Q. In this place right here?—A. Yes, sir.

Q. And I presume you voted for Mr. Wickersham?—A. I don't say to nobody to whom I voted for.

Q. Did you vote against Mr. Wickersham?—A. Well, I don't say it. I don't tell that to nobody to whom I voted for.

Q. Did you live in Ketchikan at that time?—A. When I voted?

Q. Yes.—A. I lived over on the island, over to Gravina; we live over there and here we have got this residence.

Q. You have a ranch over there?—A. Yes.

Q. And that is your home?—A. Yes.

Q. And that is where you were living November, 1918, at the time of the election?—A. Yes, sir.

Q. Over on Gravina?—A. Yes, sir.

Q. That is not in the city limits of Ketchikan?—A. I don't think so.

Q. How did you happen to vote here at that time; did somebody tell you to come here and vote?—A. I do business here and pay taxes here in Ketchikan and I thought I belonged to Ketchikan, to vote.

Q. You didn't ask anybody about it?—A. No.

Q. So you prefer to keep the name of your nominee at that time a secret, do you?—A. Yes.

Q. Well, it was well known that you were a supporter of Mr. Wickersham, wasn't it?—A. Off and on since I have been in Alaska; not all the time.

Q. But you have always been an admirer of Mr. Wickersham?—A. Well, I can't say I admire Wickersham, either.

Q. Well, in the conversations you had prior to the election day you had said to various people that Mr. Wickersham was a good man and ought to be supported, or in words to that effect?—A. I don't know.

Q. You remember having numerous conversations?—A. What?



Q. You took an interest in the election, haven't you?—A. Not very much; I have been over there and I read the papers.

Q. You are generally outspoken when you have any opinions to express, you express them without any hesitation?—A. Yes.

Q. You are outspoken when you have opinions, you express them, don't you?—A. I do; yes.

Q. And at that time you had the opinion that Wickersham was the proper man and you didn't hesitate to express it?—A. I don't know about it.

Q. Just give us your recollection.—A. I believe my opinion was about Sulzer. I know it was twice, election twice, Wickersham and Sulzer.

Q. We are speaking about last November; November, 1918.—A. I had nothing against Sulzer and nothing against Wickersham.

Q. But you expressed a preference for Wickersham? I am not asking you how you voted; I am speaking now about your preference. Do you remember having any discussion about the situation at all?—A. Last Monday, you mean?

Q. Do you remember expressing yourself at that time?—A. I tell you one thing, it is a great fault with me, when I talk with Wickersham man and on account he talk for Wickersham I say that is good man and that and this, and when I talk with Sulzer man. I don't like to get mixed in politics.

Q. You agree with both sides?—A. Yes; agree with both sides; of course, I am in business here and I don't want to—I am kind of soft-hearted.

Q. In view of that fact you don't know how you voted?—A. I knew how I voted for.

Q. Are you a Republican in politics or a Democrat?—A. Democrat.

Q. Did you vote for Sulzer?—A. I say I don't tell that to nobody who I voted for.

Q. Why not; what is your reason?—A. What I reason?

Q. Yes.—A. A business reason.

Q. You are afraid they might stop taking milk?—A. Yes.

Q. By the way, have you talked with Mr. Wickersham before coming up here to this hearing this morning, before this meeting?—A. No.

Q. Haven't you talked with anybody; didn't you tell anybody you were served with a subpoena to come up here to testify?—A. I believe I told to home, nobody else.

Q. Haven't told anybody in town here?—A. No.

Q. Did you go looking for advice or information from anybody?—A. No.

Q. Remarkable.

Cross-examination by Judge WICKERSHAM:

Q. You say you have a home over here in Ketchikan, Mr. Schafer?—A. Well, we have on account of business; we have a kind of a creamery stand here, and my wife and son live over here, and of course our residence is over there.

Q. Do you live over here with them sometimes?—A. Sometimes; yes.

Q. Your wife and son live over here?—A. Yes.

Q. Of course the son is of age?—A. Yes.

Q. You make it your business to stay over there and look after the cattle?—A. Yes; somebody has to be over there.

Q. But the wife and son lived here at the time of the election last fall?—A. Yes.

Q. And you were over here a great deal of the time yourself weren't you?—A. Yes. Sometimes I stay here at night when it is too late to go home over there; that is really our home over there.

Q. You really stay here a great deal with your wife and son?—A. Yes; that is right.

By Attorney COSGROVE:

Q. That is your home over there, Mr. Schafer, isn't it?—A. Yes.

Q. Your home and your wife's home?—A. Yes.

Q. And when you come to town you stay with your son and his wife; rather your daughter and her husband?—A. I stay with my wife at my home here.

Q. That is when you have to remain nights in town you stop at their place?—A. Yes; and stay over there most of the time.

Q. And you have been living there for years, most of the time?—A. Yes; I took a homestead there, for five years.

HENRY SCHAFFER.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON.

Notary Public.

## DEPOSITION OF LOUIE HUDSON.

LOUIE HUDSON called and sworn:

By Attorney GRIGSBY:

- Q. What is your name?—A. Louie Hudson.
- Q. You are a native?—A. Indian.
- Q. Of what tribe?—A. Tsimpsean.
- Q. Where do you live Louie?—A. I live here most of the time.
- Q. In Ketchikan most of the time?—A. Yes.
- Q. Where did you live last November?—A. I lived in town here.
- Q. Whereabouts in town?—A. Indian Town.
- Q. How long had you been living here last November?—A. I lived here about eight months, seven or eight months.
- Q. All the time?—A. Working in the mill.
- Q. Where were you born?—A. Born in Metlakatla.
- Q. Did you vote at the election last November?—A. Yes.
- Q. Where did you vote?—A. In here.
- Q. And who came up to the polls with you?—A. Nobody; I came up here myself.
- Q. Who told you to come up?—A. Nobody.
- Q. Didn't you talk with anybody about coming at all?—A. Rod. Davis and I talked to Mr. Hunt about the election a week before that, and he said we have right to vote—natives who were born in this country—in Alaska.
- Q. You were born in Alaska?—A. Yes.
- Q. You were born in Metlakatla?—A. Yes.
- Q. How old are you?—A. About 32 years.
- Q. And your home has been in Metlakatla?—A. I have my home over there, but I am staying in town most of the time.
- Q. But your home is in Metlakatla?—A. Yes.
- Q. And your home was in Matlakatla last November?—A. I was here last November.
- Q. But your home was in Metlakatla last November?—A. Yes.
- Q. Are you married?—A. Yes.
- Q. Where was your family last November?—A. In town.
- Q. With you?—A. Yes.
- Q. Were you living in a rented house?—A. Yes.
- Q. Who did you vote for?—A. My business, I guess.
- Q. I am making it my business now; you are a legal voter, you think?—A. Yes.
- Q. And you have been talking with Judge Wickersham lately?—A. No.
- Q. Haven't you talked with him at all?—A. No.
- Q. Haven't you talked with Oliver?—A. No.
- Q. Have you talked with anybody?—A. With you last Monday.
- Q. With anybody else?—A. Yes; Billie Dickinson was in.
- Q. Who else? Mr. Sharpe?—A. No; I don't think Sharpe; that fellow George.
- Q. Who?—A. George Williams.
- Q. Joe Starr?—A. George Williams, I think.
- Q. Now, did Mr. Hunt tell you you had a right to vote?—A. Yes.
- Q. You have a registration card?—A. Yes, sir.
- Q. Had you ever voted before?—A. No.
- Q. Did anybody else ever before that, the election, tell you you had the right to vote?—A. No.
- Q. What Mr. Hunt; was it Dale Hunt?—A. Old man Hunt.
- Q. Was he one of the election judges?—A. I think he was; I saw him up here when I come up here.
- Q. And he met you about a week before the election and told you you had a right to vote?—A. Rod Davis and I talked with Mr. Hunt about the coming election, you see, and he says I have got the right to vote and Davis couldn't, because he was born in British Columbia and I was born over here, and he said I could vote.
- Q. Did you ask him?—A. No; didn't ask him.
- Q. Well, who opened the conversation; how did you happen to have that conversation?—A. Davis started that.
- Q. You met Mr. Hunt, you and Davis?—A. I was walking along with Davis and we went into a stove and started to talk about that coming election, you see.

Q. Who did?—A. Davis.

Q. And Mr. Hunt saw you go into the store and came in?—A. Mr. Hunt was in all the time.

Q. And did he tell you how to vote?—A. No; he didn't tell how to vote.

Q. When you voted did anybody help you mark your ballot?—A. No; marked myself.

Q. Didn't need anybody to help you?—A. No.

Q. When you talked with me last Monday didn't you tell me you lived in Metlakatla?—A. No; I haven't.

Q. Have you got a fisherman's license?—A. Yes.

Q. Have you got it with you?—A. No.

Q. Have you got it home?—A. On the boat.

Q. Where is your boat?—A. Down to the dock.

Q. When did you get it?—A. I believe a year ago last June.

Q. June, 1918?—A. Yes.

Q. And when you got your license, did you tell where you lived?—A. I got home in Metlakatla.

Q. Did you tell the man who gave you the license where you lived?—A. Yes.

Q. Do you know who you got the license from?—A. I got application here from Forest Service.

Q. In June, 1918?—A. Yes.

Q. Where were you during the summer of 1918?—A. Down in the mill.

Q. Here in Ketchikan?—A. Yes.

Q. Did you stay here all summer?—A. Up there for about, in Shakan, about one month and come back here and work in the mill.

Q. And when did you go to work in the mill, in the summer of 1918?—A. I start about August.

Q. How long did you work?—A. Up to December.

Q. All the time?—A. Yes.

Q. Right in the town of Ketchikan?—A. Yes.

Q. Now, you don't want to tell who you voted for?—A. Voted for Wickersham.

Q. Wickersham?—A. Yes.

Q. Who told you to vote for Wickersham?—A. I just want to vote for him myself.

Q. Did anybody advise you he was a good man to vote for?—A. No.

Q. Nobody told you?—A. No.

Q. Do you know him?—A. Just heard quite a lot of him.

Q. From whom?—A. Everybody around town.

Q. Any white residents?—A. Yes.

Q. Who?—A. I couldn't remember.

Q. Mr. Oliver?—A. No.

Q. Do you belong to the Fishermen's Union?—A. Labor Union.

Q. Labor Union?—A. Yes.

Q. Did Mr. Oliver talk with you about it?—A. No.

Q. Mr. Hunt?—A. Yes.

Q. Did he tell you that Wickersham was a good man to vote for?—A. No; he did not tell me that; he tell I could vote.

Q. Nobody told you as to whom to vote for at all?—A. No.

Q. Nobody talked to any Indians? Nobody talked to anybody as to whom to vote for?—A. I don't know.

Q. You know whether anybody talked to you, advised you how to vote?—A. No.

Q. Didn't advise the rest of the boys as to whom to vote for?—A. No.

Q. You didn't talk about it to anybody, did you?—A. No.

Q. When you came up here to vote nobody knew whether you were for Wickersham or Sulzer?—A. No.

Q. Will you go down and bring up the fisherman's license?—A. Yes.

Cross-examination by Judge WICKERSHAM:

Q. Mr. Hudson, you say you own a boat?—A. Yes.

Q. What kind of a boat?—A. Troller.

Q. How large a boat?—A. About 30 feet.

Q. How long have you owned it?—A. Ten months or something like that.

Q. In 1918, before the election, you say you worked here in the mill?—A. Yes.

Q. You worked here from August to December, 1918?—A. Yes.

Q. Are you married?—A. Yes.

- Q. And your family was living with you at that time?—A. Yes.
- Q. Where did you live?—A. Rented a cabin in Indian town.
- Q. Now, you had a talk with Mr. Grigsby, and Dickinson, and George Williams a few days ago, about this matter?—A. Last Monday.
- Q. Did they send for you?—A. Yes; Billie Dickinson.
- Q. Who is Billie Dickinson?—A. I don't know what he is doing around, but he was staying in town. I met him down here, and he called me up to Mr. Grigsby's place in the Stedman.
- Q. You went to see Mr. Grigsby in his room in the Stedman Hotel?—A. Yes.
- Q. What did he say to you?—A. He asked where I was born.
- Q. You told him you were born in Metlakatla?—A. Yes.
- Q. Then what did he ask you?—A. Who I voted for.
- Q. You told him then?—A. Yes.
- Q. You are 32 years old?—A. Something like that.
- Q. Were you registered as a United States soldier in the last war?—A. What?
- Q. Have you got a registration card?—A. No; I don't carry.
- Q. Where were you registered?—A. In town here; customhouse office.
- Q. You wasn't drafted, wasn't called?—A. No.
- Q. How long have you been to school?—A. I was down in 1908.
- Q. How long did you go to school?—A. About one year.
- Q. Where did you go to school at?—A. Chemawa.
- Q. Did you go to school at Metlakatla, too?—A. Yes.
- Q. How long were you in school in Metlakatla?—A. About four years.
- Q. You read and write English, do you?—A. A little.
- Q. You read the newspapers?—A. Once in a while I do.
- Q. What papers do you read?—A. Ketchikan Times.
- Q. Ketchikan Times. Have you got any children?—A. No.
- Q. You don't have any chief, don't recognize any chief in anyway?—A. No.
- Q. Uncle Sam is the only chief you look to?—A. Yes.
- Q. You try to obey the laws, etc., do you, and live like white men?—A. Yes, sir.
- Q. You live in your own houses?—A. Yes.
- Q. And all that? Didn't you go to school at Sitka?—A. No, sir; did not.
- Q. Now, Mr. Hunt advised Rod Davis that he couldn't vote?—A. Yes.
- Q. Why?—A. Because he was born over in British Columbia.
- Q. And advised you that you could vote?—A. Yes.
- Q. And you and Rod Davis went into Mr. Hunt's store to talk to him about the matter; didn't you?—A. Yes.
- Q. Have you ever had any papers to run boats?—A. No.
- Q. Your boat is a small boat?—A. Yes.
- Q. And you don't need any papers for that?—A. No.
- Q. If you go down to get that fishing license, try and find your registration card, too, will you, if you can.

(Witness returns in the evening and testifies as follows:)

By Attorney GRIGSBY:

Q. Did you find your license?—A. Yes.

Q. We offer it in evidence and ask to have it copied into the record, that the boy can have it again.

(Copies into record as follows:)

"Form 0256. Not transferable. No. S 055630. United States of America, Office of United States Food Administrator. Fisherman's License. License is hereby granted to Louie Hudson, of Metlakatla, Alaska, to engage in the business of catching and distributing salt-water fish, shellfish, and crustaceans. This license is subject to revocation at any time for violation of the rules and regulations prescribed by the President of the United States or by the United States Food Administrator, under the direction of the President, or for violation of any of the provisions of the act Congress under which this license is issued. This license, and the rules and regulations issued thereunder, shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated, and the fact of such termination shall have been proclaimed by the President. Dated June 31, 1918. United States Food Administration, by Herbert Hoover, United States Food Administrator." (On the reverse side:) "Initialed AE. Louie Hudson, care of Hon. R. A. Gunnison, Federal Food Administrator, Juneau, Alaska."

By Attorney GRIGSBY:

Q. At the time you got that license you claimed Metlakatla as your home?—  
A. I put it on the application.

By Judge WICKERSHAM:

Q. How did you happen to make that Metlakatla when you live here?—A. I was out in the camp, Rod Davis and I, after piling.

Q. Who made the application for you?—A. I filled it out myself.

Q. Where did you go, fishing, after that?—A. I was fishing up Chatham Straits.

Q. Did you go by Metlakatla, that way?—A. Went from here to Juneau.

Q. And then you got your license and went out fishing?—A. I didn't have license that summer; didn't get.

By Attorney COSGROVE:

Q. Why did you tell them you lived in Metlakatla if you lived in Ketchikan?—  
A. I get my mail there all the time.

Q. You got your mail at Metlakatla all the time, but lived in Ketchikan?—  
A. Most of the time I get my mail over there than here. I have got boat here. I drop in here sometimes and sometimes at Metlakatla. Just now, just come from Metlakatla to get my license.

By Judge WICKERSHAM:

Q. Well, we put his registration card in then; I will read his registration card [reads]: "Registration certificate. To whom it may concern, greetings: These presents attest, that in accordance with the proclamation of the President of the United States and in compliance with law, Louis Milton Hudson, of Ketchikan, Alaska, has submitted himself to, and has by me been duly registered this 25th day of October, 1918, under the supervision of the local board designated on the back hereof. E. G. Keeney. Local Board No. 4, city of Ketchikan, Alaska."

Attorney COSGROVE. What is the date of that, Judge?

Judge WICKERSHAM. October 25, 1918.

Subscribed and sworn to before me this 11th day of October, 1919.

\_\_\_\_\_  
Notary Public.

#### DEPOSITION OF GEORGE JOHNSON.

GEORGE JOHNSON, called and sworn.

By Attorney COSGROVE:

Q. Now, Chief, what is your full name?—A. George.

Q. George Johnson?—A. Yes.

Q. And you are an Indian, Indian chief?—A. Oh, long time ago, not Indian chief, but, young man, I don't know that; just the same as white man now, belong to America.

Q. And where do you live, George?—A. My live Ketchikan.

Q. Live where?—A. Ketchikan.

Q. In Ketchikan?—A. Yes.

Q. Is that your totem pole down there; is that yours?—A. Yes.

Q. What does that totem pole mean right up in front of your house?—A. Mean before no white man stop; my uncle used that.

Q. Do you use it, that totem pole?—A. Well, I use, yes; but, Mr. Cosgrove, I tell you totem pole, I tell you by and by.

Q. I suppose you could talk better if you had an interpreter?—A. I want good interpreter; anywhere me talk by and by; I have got story by and by.

Judge WICKERSHAM. You talk all right; take it slowly.

Attorney GRIGSBY. I object to Judge Wickersham instructing the witness.

By Attorney COSGROVE:

Q. You vote last November, George; November, 1918?—A. Yes.

Q. What you vote?—A. Well, I vote because I hear Wickersham good man that work; he help man, he can't help rich man; and what I think that man, that man he start good work.

Q. Who told you that?—A. I think all the time that man, suppose you say no help poor man just the same me, see that man—



Q. But how did you find that out, that he helps the poor?—A. Well, I know story, long time my grandfather—

(Stenographer couldn't understand the balance of the sentence and stopped witness to have it repeated, which witness did not repeat.)

WITNESS. It is too hard to talk English. Suppose I tell you my talk; you can't remember; my talk; I use my talk.

By Attorney COSGROVE:

Q. Who told you that Mr. Wickersham helped the poor man?—A. Well, I hear.

Q. Who told you?—A. Everybody tell him that I hear I think all right—Wickersham all right.

Q. Do you remember talking with anybody about it who told you that?—A. Everybody.

Q. Name one.—A. I know no; I go down; I hear Wickersham all right.

Q. Did Mr. Oliver tell you that—tell you Wickersham good man?—A. Wickersham good man, I hear.

Q. Did Mr. Oliver—do you know Bob Oliver?—A. He didn't tell.

Q. Did Mr. Hunt tell you that?—A. No.

Q. Can't you name any man who did tell you?—A. Young men say newspaper; read newspaper, and I hear Wickersham all right; young men tell me.

Q. I suppose you were out to get votes for Wickersham because he was a good man?—A. What?

Q. You worked pretty hard for Wickersham among young Indians to tell them Wickersham good man and tried to get votes for Wickersham?—A. Where is Wickersham now?

Q. Don't you know he went to Valdez the other day? Well, I think he did.—A. I know his name; that is all I know.

Q. You don't know Wickersham when you see him? You don't know Mr. Wickersham?—A. Just his name I hear.

Q. The Wickersham noise you heard, that is still ringing in your ear is it? What time of the day did you vote last election—November, 1918?—A. Mr. What you call that fellow—Mr. Hunt—he know it.

Q. Mr. Hunt; did you come up here with Mr. Hunt to vote?—A. He go down below long time ago; about one week, I guess.

Q. Where did you vote last election day?—A. Mr. Hunt, he take me to vote; I am not sure Mr. Hunt he take me to vote.

Q. Did anybody help you mark your ballot?—A. No.

Q. Did you do it yourself?—A. Yes.

Q. Did anybody show you how; do you remember?—A. No; I can't remember.

Q. Can you write—write English?—A. No.

Q. Did you get a paper telling you how to vote; when did you get this paper?—A. Mr. Bob start; he tell come on get and vote for paper—long paper—all right, I tell.

Q. Who marked the ballot; Bob mark the ballot for you?—A. No; I mark same cross.

Q. Where did you mark the cross on the papers?—A. Across that paper.

Q. Whereabouts on the paper? Where did you put the cross on the paper?—A. Say, take good interpreter.

Q. Where did you make the cross on paper; who told you where to put the cross?—A. Mr. Hunt.

Q. He told you?—A. Yes.

Q. Is Mr. Hunt your friend?—A. Not my friend; I believe Wickersham all right, see.

Q. What office was Mr. Wickersham running for?—A. We know that, because he help poor man; he said high-tone man say I won't help that man.

Q. Do you know what office Mr. Wickersham was running for?—A. No.

Q. Who told you Wickersham is such a good man?—A. I hear good man, Wickersham; I hear good man.

Q. By the way, what tribe of Indians do you belong to George?—A. Say, you know mountain here, pretty close to Georges Inlet; that place, that mountain, save my family and Saxman people, too, and world is full of water.

Q. And what is the name of your tribe?—A. That mountain?

Q. Yes?—A. That mountain name, Goodlucksheek, long time ago, look up, stone fence on top.

Q. What is the name of the Indians; are you a Thlinket?—A. Yes.

Q. Well, you chief of the Thlinkets?—A. Before; sure.

Q. How long ago?—A. Now behind [decide] for Uncle Sam; I belong Uncle Sam now.

Q. Well, all big chiefs belong to Uncle Sam, too?—A. Long time ago, big chief.

Q. Aren't you chief now?—A. I want good interpreter.

Q. You are doing fine. Are you chief now, Johnson?—A. Yes; all the time. Not my chief, suppose that young foolish, I talk good talk. Now, my chief is foolish, I give me smart all the time, suppose people laugh, poor man would not laugh. I tell that all young men here beside [decide] for Uncle Sam, if Uncle Sam fight start, all Indians start fight.

Q. And, Johnson, you are chief of your Indians, and when you see them doing wrong you go and tell them to do right and to stand up for Uncle Sam?—A. Yes.

Q. And be better boys. You tell them to be good boys and stand up for Uncle Same, because you are chief?—A. Because Uncle Sam is a good man for the world. Uncle Sam before he start man just now, just same work George Washington. My grandfather is name Slewair, be the first ship go from New York, some eight years he stop that ship. My father his uncle, Slewair, before white man come to Alaska, I tell you, Mr. Cosgrove.

Q. Johnson, pardon me a moment, you are still chief, aren't you?—A. You ask me beside [decide] for Washington.

Q. I don't want to know about George Washington; you know Uncle Sam?—A. Uncle Sam just the same, my father tell me American now.

Q. Did you ever see your uncle?

Judge WICKERSHAM. I object to the making of silly remarks, trying to make it appear ridiculous; he is a good man, and is making a good, clean statement here, and I object to your meddling with him and mixing him up, trying to make it appear silly.

Attorney COSGROVE. We are trying to get at the facts.

Attorney GRIGSBY. We object to the statement of counsel and his accusation; the testimony of the witness speaks for itself.

Judge WICKERSHAM. It isn't going into the record at all, and I object.

Attorney GRIGSBY. I would like to ask the stenographer as to whether or not the testimony is going into the record; and if not, why it is not going into the record?

STENOGRAPHER. It is going in the best I can put it in with the language the witness is using.

Judge WICKERSHAM. And the rapidity with which he is using it?

The STENOGRAPHER. Not necessarily.

Attorney COSGROVE. Are we putting any obstacle in the way of your taking the witness's testimony, Mr. Stenographer?

STENOGRAPHER. Yes; I think we ought to have an interpreter. I have been a stenographer in the Immigration Service for some years, and in cases of this kind we would use an interpreter.

Attorney COSGROVE. It is necessary for us to do the best we can without the services of an interpreter; you may interrupt. Mr. Wickersham says that we don't need any.

Judge WICKERSHAM. I have been trying to get the witness to talk slowly.

Attorney COSGROVE. You have been telling him he was doing all right and getting along in first-class style, with the evident purpose of meddling the witness up.

Q. You are still chief of the Thlinket Tribe, answer the question yes or no, can't you?—A. Want to know that chief?

Q. Are you chief of the Thlinket Tribe now?—A. No.

Q. How long ago did you stop being chief?—A. Long time ago, no got.

Q. You live down in Indian town in Ketchikan?—A. Yes; Ketchikan; I live here.

Q. Don't you sometimes have pow wows down there, all the Indians collect in your house and talk?—A. Sometimes meeting.

Q. Sometimes meetings; well aren't you the chairman of the meeting, you preside over the meeting?—A. No. Talk good talk.

Q. Members of your tribe?—A. No.

Q. And you give good advice at that time?—A. I tell that people, little girls and boys, don't go outside, make sick Indians, Filipinos, with Chinaman, by and by lost.

Q. And these Indians meet at your house and then talk to you?—A. Not me talk, own people appoint head man, have William Kinnook and Billie Dickinson.

Q. How often do you meet that way Johnson, every week?—A. No.

Q. You meet often—every month?—A. Sometimes one year, one meeting; talk.

Q. And you have big party, big potlach?—A. No.

Q. How long since you have had a potlach, George?—A. Long time ago, seven, eight, nine—nine years, I promise I cut because all young people beside [decide] for Uncle Sam and I quit, the same white man, see.

Q. Did you ever vote before this last election in November? You vote first time last November?—A. In this house?

Q. Yes.—A. Yes; the first time, Mr. Hunt.

Q. Mr. Hunt and you voted?—A. Mr. Hunt.

Q. And when you got up here you go right to Mr. Hunt; he was one of the judges?—A. Yes.

Q. And he give you paper?—A. I make out paper.

Q. Did you ever vote before?—A. No.

Cross-examination by Judge WICKERSHAM:

Q. George, you own a house down here?—A. Yes.

Q. And some property, some land?—A. Yes.

Q. And a house?—A. Yes.

Q. How long have you owned that?—A. Got, got, long time, can't count it.

Judge WICKERSHAM. I have here a certified copy of the assessment roll of the town of Ketchikan for 1918, certified to by A. R. Larson, the town treasurer, and I intend to introduce it; and I exhibit it to counsel so they may look at it before I ask any questions about it. [Same passed to and returned by Attorney Grigsby.] And I now offer that portion of it relating to this witness, George Johnson, showing that he has a house on fraction of lot 19, block 17, in the town of Ketchikan that was assessed in 1918 at \$200, and there was a \$4 tax on it, and that he paid this tax October 15, 1918, before the date of election.

By Attorney COSGROVE:

Q. That house where you live now, that is the chief's house, long time ago?—A. Yes.

Q. Same house?—A. Yes.

GEORGE (his X mark) JOHNSON.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL]

WILL H. WINSTON,  
Notary Public.

DESPOSITION OF JAMES STARR.

JAMES STARR called and not sworn.

By Attorney Grigsby:

Q. Your name is James Starr?—A. Yes.

Q. Where do you live?

NOTARY. Don't you want him sworn?

Attorney GRIGSBY. I thought he was sworn.

(Witness sworn.)

Q. Your name is James Starr?—A. Yes.

Q. What tribe of Indians do you belong to?—A. What tribe?

Q. Yes?—A. Thlinket.

Q. Where do you live?—A. In Ketchikan.

Q. In Indian Town?—A. Yes, sir.

Q. How long have you lived there?—A. I have been living there ever since I was born here.

Q. You were born in Ketchikan?—A. Yes.

Q. You were living in Ketchikan last November at the time of the election?—A. Yes, sir.

Q. How old are you?—A. About 38.

Q. Did you vote last election for Delegate to Congress?—A. Yes; I vote last year.

Q. Who did you vote for?—A. I understand I vote Wickersham.

Q. Who else did you vote for?—A. Well, just him.

Q. What office was he running for?—A. What office he run?

Q. Do you know what office he was running for?—A. Well, I don't know what office he run.

Q. Do you know whether he is a Republican or Democrat?—

Judge WICKERSHAM. Do you know, George?

Attorney GRIGSBY. No, I don't.

Q. Do you know whether Mr. Wickersham is a Republican or a Democrat?—

A. I understand that he do what is right, fellows like us, stand on our side, you understand he is going on our side, I understand that right to vote for him.

Q. Do you know whether he is a Republican or Democrat?

Judge WICKERSHAM. I object; that is immaterial.

Attorney GRIGSBY. Answer the question; I have a right to test the intelligence of the witness.

Q. Do you know?—A. I don't understand, I can't answer, I don't understand.

Q. Did you ever vote before the last election?—A. The first time.

Q. That was the first time you ever voted?—A. Yes.

Q. Why didn't you ever vote before?—A. Well, I don't understand very well, of course only time I understand we can vote.

Q. First time you understood you could vote?—A. Yes.

Q. Who told you you could vote?—A. Nobody; but we hear that so understand and we come in.

Q. Who did you hear it from?—A. Some people talk it about town.

Q. Who told you that you could vote?—A. Nobody.

Q. How did you know it then?—A. I hear from town.

Q. Who did you hear it from?—A. From people talking about, I don't know I hear.

Q. Do you know who it was?—A. No; I don't.

Q. Did you ever talk with Mr. Hunt?—A. No.

Q. Or Mr. Bob Oliver?—A. No; I never.

Q. Did anybody come up to the polls with you?—A. No.

Q. Weren't you talking to me in my room?—A. I wasn't there.

Q. Have you talked with Mr. Wickersham?—A. No; I never talk.

Q. Did you ever talk to Mr. Oliver?—A. No, sir.

Q. Somebody told you you could vote last election?—A. What I heard around town, bunch talk about, crowd of friends.

Q. And you don't know who it was told you?—A. I don't know.

Q. Who told you to vote for Mr. Wickersham?—A. Nobody told me.

Q. Who told you he was a good man to vote for?—A. I heard from crowd, some persons state what we have right to vote for Wickersham, so I understand too.

Q. Did any other Indian boys come up with you when you voted?—A. Few, bunch with me.

Q. Did you have a sample ballot?—A. Yes; I put down.

Q. Did you have a paper to show you how to vote?—A. No.

Q. Did anybody help you to mark your ballot?—A. I come in here; Mr. Hunt was at the table here and he give.

Q. Give you a paper?—A. Yes.

Q. Who showed you how to mark it?—A. Nobody show me.

Q. Did you have another paper?—A. Just one paper; just what I got from the table here.

Q. How did you know how to mark it?—A. I see Mr. Wickersham's name there and so I mark.

Q. Did you put a cross there?—A. A cross at the end of his name.

Q. Did you vote for anybody else?—A. That is all I vote.

Q. And did anybody show you how to mark the paper?—A. That is all, I understand to mark cross.

Q. Who told you that?—A. Nobody.

Q. Nobody told you to mark with a cross?—A. No.

Q. How did you know?—A. I hear some people talk about it; they say all got to do mark cross who going to vote.

Q. And you didn't vote for anybody else?—A. No.

Q. And you did not know what office Mr. Wickersham was running for?—A. No.

Q. Who is your chief?—A. I have got no chief.

Q. Do you know Chief Johnson?—A. I know his name, that is all.

Q. Did you ever go to his house?—A. Never often go, once or twice, sometimes I see him.

Q. When anybody dies down there, do you have a meeting?—A. We do meet when some of our people dead.

Q. And the chief is there, Johnson?—A. I see him around there.

Q. And they pay all the debts?—A. Who carry our body in the grave, we can give something, so many ours what make that grave, and put in the grave, he is who do it.

Q. What do you do with his property?—A. What property?

Q. If he has any property, the man that dies, what do you do with it?—A. If he had some there wife, his wife took care of it.

Q. You give it to him?—A. Of course, have right to take, to take care of property, his wife when husband die, the wife take his place.

Q. Do you have a meeting, Chief Johnson, have a meeting when man dies?—A. I don't say hold meeting, just I say when some one die, some one, his son, any son, or wife, who take his place, take his husband property.

Q. Is that an Indian custom?—A. I don't know Indian custom, all I understand what do.

Q. And you dress up like Indians?—A. I don't, how dress.

Q. You don't dress?—A. I dress up me the way I am now.

Q. Do the rest of the Indians dress up different when anybody dies?—A. I never see, everybody see when take our body in the people's house.

Q. Do you recognize Chief Johnson as chief of the tribe?—A. I don't understand him, only his name, all I heard his name.

Cross-examination by Judge WICKERSHAM:

Q. You have got some property over here, Mr. Starr?—A. Yes, sir.

Q. You own a house and lot?—A. Yes; I own place.

Judge WICKERSHAM. I want to read into the record now, from the certified copy of the assessment roll of the town of Ketchikan, the following: "Starr, Jimmie, cabin, Willie Brown tract; value, \$75; total value, \$75; tax, \$1.50, paid November 4, 1918; penalty, 25 cents."

Q. How long have you owned that property?—A. I only—pretty close to quite a long time since I have that place. The first right below that I sold to another fellow.

Q. Are you married?—A. I was married before, but my wife dead; now single.

Q. How long were you living in that property where you are living now?—A. Well, I have been move there 10 years now.

Q. You have been living there 10 years now?—A. Where I was now.

Q. And you own that place?—A. Yes; I bought that place.

Q. Have you got a boat? Do you own a boat, any kind of a boat?—A. Well, I sold my boat last year; I have got no boat now.

Q. What kind of a boat?—A. Gas boat.

Q. How much did it cost?—A. Boat—cost boat?

Q. How much money did it cost?—A. \$1,200.

Q. Do you belong to the Alaska Labor Union?—A. Yes, sir.

Q. How long have you belonged to it?—A. Last fall I join them.

Q. Where did you go to school?—A. I was down in Chemawa, Oreg.

Q. How long?—A. Couple years I was there.

Q. Did you go to school here in Ketchikan at all?—A. When I was little kid.

Q. You can read and write?—A. I read a little bit.

Q. Your people here all wear clothes just like white men?—A. All wear any way since I was kid.

Q. You don't have any chief to control you?—A. I understand that myself; I know now.

Q. You knew Uncle Sam is the big chief in the United States?—A. Yes; I understand since kid.

Q. You were born in Ketchikan?—A. Yes.

Q. Did you register as a United States soldier last year for the war?—A. Just before I registered the war stopped, and I didn't get registration card.

Q. You were over 31 years of age?—A. Yes; about 38.

Q. And they stopped the registering on the close of the war?—A. Yes.

By Attorney GRIGSBY:

Q. Let me see, your name is J. Starr?—A. Jimmie Starr.

Q. Your brother is Joe Starr?—A. Yes.

Q. Is he here?—A. In town here, I guess.

Subscribed and sworn to before me this 11th day of October, 1919.

\_\_\_\_\_  
Notary Public.



DEPOSITION OF MATT FAWCETT.

Hearings continued 2 p. m.

MATT FAWCETT called and sworn.

By Attorney COSGROVE:

- Q. What is your full name?—A. Matt Fawcett, Mathew Fawcett.  
 Q. Where do you live, Mathew?—A. Ketchikan.  
 Q. How long have you lived here?—A. Pretty near all my life.  
 Q. Were you born here?—A. No.  
 Q. Where were you born?—A. British side.  
 Q. On the British side; what place?—A. Old Metlawatla.  
 Q. When did you come over here?—A. Well, I couldn't remember that time; too small.  
 Q. Is your father living?—A. Yes.  
 Q. Did you come over with him?—A. Yes.  
 Q. Was he born over there?—A. I guess he born, I don't know.  
 Q. Was he ever naturalized, ever become a citizen?—A. No.  
 Q. Did you ever become a citizen?—A. No.  
 Q. Did you vote in November, 1918?—A. Yes, sir.  
 Q. At the election here in town?—A. Yes.  
 Q. Election for Delegate to Congress? Where did you vote, in this room?—A. In this room.  
 Q. Who did you vote for?—A. I think Wickersham.  
 Q. You are sure about that?—A. Yes.  
 Q. How did you happen to vote, Matt, did somebody tell you you had a right to vote?—A. No.  
 Q. Did you get a registration card?—A. Yes, sir.  
 Q. Did you talk with anybody about your right to vote before you voted?—A. Yes, I hear all my friends in town, white fellows and some natives.  
 Q. What white fellows told you you had the right to vote?—A. Mr. Hannun.  
 Q. Did he instruct you to vote for Wickersham?—A. No; don't tell.  
 Q. Did he tell you to vote for Wickersham?—A. No; didn't tell about that, I know that Wickersham good man for labor man.  
 Q. And you came up and voted Wickersham?—A. Yes, sir.  
 Q. What office was Wickersham running for at that time?—A. What?  
 Q. What office was Wickersham running for, do you know?—A. In this room?  
 Q. But I say, what office, what place was Wickersham a candidate for?—A. I don't know that.  
 Q. Did you vote for anybody except Mr. Wickersham?—A. No; except Wickersham.  
 Q. And how did you find out how to mark your paper?—A. I see names on the paper.  
 Q. Who gave you the paper?—A. Well, I get it from this room here.  
 Q. Who gave it to you?—A. Well, she got a little room beside.  
 Q. Who got?—A. I don't know who got. I can't remember that.  
 Q. Did somebody help you to mark your ballot?—A. No.  
 Q. Did somebody tell you where to mark it?—A. No.  
 Q. You see Wickersham's name and you mark it?—A. Yes.  
 Q. Now, did you know how to mark it?—A. I know I had to vote, in my house, the same little like that.  
 Q. Where was your home?—A. Metlakatla.  
 Q. Did you vote in Metlakatla?—A. Yes; for council.  
 Q. And you use the same system? You say you live now at Ketchikan?—A. Yes sir.  
 Q. Where did you live November last year?—A. I live at Ketchikan.  
 Q. How long before that did you live in Ketchikan?—A. Pretty near 10 years now.  
 Q. Did you ever live in Metlakatla?—A. No.  
 Q. What tribe of Indians do you belong to?—A. Tsimpsean.

Cross-examination by Judge WICKERSHAM:

- Q. How old were you, Matt, when you came over to Metlakatla with your father?—A. Well, I think 5 or 6 years, I couldn't remember that.  
 Q. Where have you gone to school?—A. In Metlakatla.  
 Q. And where else?—A. No place.

Q. How long did you go to school there?—A. About, maybe over 15 years.

Q. How old are you now?—A. I guess I figure about 37, like that.

Q. And how long have you lived here in Ketchikan?—A. I guess, maybe, over, pretty close 10 years.

Q. You own property here?—A. Yes, sir.

Judge WICKERSHAM. I read now from this certified copy furnished me by the town treasurer, with reference to this man's property—

Attorney GRIGSBY. We object to it on the ground that the testimony shows the witness not a citizen of the United States, it is immaterial.

Judge WICKERSHAM. Well, I think that has reference to many other things. [Reads] "Fawcett, Mathew, description of property, cabin; fraction of lot 15, block 28; value, \$100; total valuation, \$100; tax, \$2; paid September 3, 1918."

Q. How long have you owned that place?—A. All the time.

Q. You are married?—A. Yes.

Q. And have any children?—A. I have six children.

Q. You have been living there 10 years?—A. Yes.

Q. Do you recognize any chief?—A. No.

Q. You resided in Metakatla in Father Duncan's town for many years?—A. Yes, sir.

Q. And went to school there many years?—A. Yes.

Q. And you left there, come over to Ketchikan and brought a home and live here?—A. Yes, sir.

Q. What is your business?—A. I have been working sawmill.

Q. How long?—A. As soon as I get work. About 16 years old start to work here.

Q. Now, is there any chief in New Metlakatla?—A. No, sir.

Q. That is a town established by Father Duncan; an Episcopal missionary?—A. Yes, sir.

Q. Under laws passed by the United States Congress?—A. Yes, sir.

Q. What kind of houses do they have, Matt?—A. Good houses like some houses around here, around here some of them old houses.

Q. Like the white people, like here in Ketchikan?—A. Yes; like white people.

Q. Don't have any chief there?—A. No.

Q. Nor any tribal relations?—A. No, sir.

Q. They have a church?—A. Yes, sir.

Q. How long has the church been there?—A. Same time when move there; start to build.

Q. Big fine church?—A. Big fine church.

Q. And a schoolhouse?—A. Yes; schoolhouse.

Q. How large a school is it?—A. Just the same up here; big houses there.

Q. Big fine houses?—A. Big fine houses.

Q. Waterworks?—A. Yes; got waterworks now.

Q. Haven't they got an electric-light plant there?—A. No, sir.

Q. What have you in the way of a sawmill; have you had in years gone by?—A. What is that?

Q. What kind of a sawmill?—A. Had sawmill there; same like here, small, small mill.

Q. Have they a wharf?—A. Yes; have dock.

By Attorney GRIGSBY:

We object to all this as not proper cross-examination and immaterial, inasmuch as the witness has testified that he was born in British Columbia and not a citizen of the United States under any theory; doesn't live in Metlakatla and hasn't lived there for 10 years, and there is an attempt to encumber the record.

By Judge WICKERSHAM:

I am offering this testimony, Mr. Grigsby, on the theory that, perhaps, these people might be citizens by act of Congress, establishing New Metlakatla and by their habits at that particular place, and the establishing their homes in Alaska, and thereby adopting the habits of civilized life, and becoming citizens by doing so. I think the situation there is peculiar.

Q. Do you own a boat?—A. No.

Q. You are not a boatman?—A. I don't own boat.

Q. What is your business; you did tell you work in the mill?—A. Sawmill.

Q. How long have you worked in the sawmill here?—A. I live here pretty close four years now.

Q. What do you do in the sawmill?—A. Doing everything; I work trimmer saw; I have been working cutting logs in the boom; I have been working box factory.

Q. Are you a member of the Alaska Labor Union of Ketchikan?—A. Yes.

Q. What is the button you have on your coat there?—A. That is the Alaska Labor Union.

Q. You were registered for the United States Army?—A. Yes, sir.

Q. Where were you registered at?—A. Customhouse office.

Q. Here in Ketchikan?—A. In Ketchikan.

Q. Did you have any Liberty bonds?—A. Yes, sir.

Q. And you subscribed to the Red Cross funds?—A. Yes, sir.

Q. Do your children go to school?—A. Yes, sir.

Q. How many children have you; do you say, six?—A. Six.

Q. What school do your children go to?—A. St. Johns School, Indian school.

Q. Run by the Episcopalian Church there?—A. Yes.

Q. How long have they been going to school there?—A. All the time; I don't know how many years.

Q. Several years?—A. Several years.

Q. Have you paid any school tax?—A. Yes, sir.

Q. How much?—A. \$5.

Q. Did you ever pay any road tax?—A. What is that.

Q. Some years ago did you pay a tax for working on the road, or do you not remember?—A. Yes; I think I paid that way.

Q. Where do your father and mother live?—A. She living New Metlakatla.

Q. Is your father dead?—A. He die.

Q. How long ago?—A. Pretty near three years now.

Q. What did he do before his death; what business did he follow?—A. Working in the fishing, seining.

Q. Where?—A. Metlakatla.

Q. Where else?—A. Any place.

Q. He followed the fishing business through Southeastern Alaska?—A. Yes, sir.

Subscribed and sworn to before me this 11th day of October, 1919.

\_\_\_\_\_  
Notary Public.

DEPOSITION OF PAUL MATHER.

PAUL MATHER called and sworn.

By Attorney GRIGSBY:

Q. State your full name.—A. Paul James Mather.

Q. Where do you live Mr. Mather?—A. I live in Ketchikan.

Q. How long have you lived in Ketchikan?—A. Ever since 1907.

Q. Continuously?—A. Continuously.

Q. Are you a native Indian?—A. What do you mean by that?

Q. What race are you?—A. Tsimpsean.

Q. Indian?—A. Tsimpsean; no Indian.

Q. It isn't Indian?—A. Not that I know of.

Q. You don't know that Tsimpsean is a tribe of Indians?—A. No.

Q. You don't consider yourself Indian then?—A. I am Tsimpsean.

Q. What is Tsimpsean?—A. Tsimpsean is a native of northern British Columbia, Skeena River.

Q. Where were you born?—A. I was born in northern British Columbia.

Q. How old were you when you came to Alaska?—A. About 8, I am not sure; I could tell you when I was born; moved here 1887.

Q. To what part of Alaska?—A. To Metlakatla.

Q. Did your father come with you?—A. Yes.

Q. Was he a native of British Columbia?—A. He was Tsimpsean; yes.

Q. A native of British Columbia?—A. Yes; Tsimpsean.

Q. He was a naturalized citizen, was he, in the United States?—A. Yes.

Q. Do you know where he got his first papers?—A. Seattle.

Q. Do you know where he got his second papers?—A. In Juneau.

Q. Have you seen them, have you?—A. Yes; I saw the first and last, I have a copy.

Q. You have a copy of his second papers?—A. Yes.

Q. How old were you when he got his second papers?—A. I was 19—going on 19.

Q. You were under 21?—A. Under 21.

Q. You live down here in what is called Indian town?—A. I live in Ketchikan, southern part of Ketchikan.

Q. You live in that part of Ketchikan known as Indian town?—A. White people live there, too.

Q. Isn't there a part of Ketchikan called Indian town?—A. I don't know.

Q. You don't know that?—A. No.

Q. Did you vote last election, last November?—A. I did.

Q. For whom did you vote?—A. I don't care to tell for whom I voted.

By Judge WICKERSHAM:

Q. Have you got the certified copy of your father's naturalization papers with you?—A. Yes, sir.

Q. I wish you would produce them; let me see them. I offer them in evidence; I will file them and let them go right into the record. Do you have any objection to these, gentlemen?

Attorney GRIGSBY. No.

By Judge WICKERSHAM:

Q. Do you have any objection to having them copied in the record or do you want the original filed?—A. No objection.

(Certified copy of naturalization paper copied into the record as follows:)

[Page 1.]

UNITED STATES OF AMERICA,

*District of Alaska, Division No. 1, ss:*

I, the undersigned, clerk of the District Court for the District of Alaska, Division No. 1, do hereby certify that the hereto attached is a full, true, and correct copy of the original order, admitting Edward K. Mather to become a citizen of the United States of America, on file and of record in my office.

In testimony whereof, I have hereto subscribed my name and affixed the seal of said court at Juneau, Alaska, this 1st day of October, 1919.

[SEAL.]

J. W. BELL, Clerk.

[Page 2.]

*In the District Court for the District of Alaska, Division No. 1, at Juneau.*

TUESDAY, MAY 17, 1898.

In the matter of the admission of Edward K. Mather to become a citizen of the United States.

Now at this day comes the above-named Edward K. Mather and prays to be admitted to become a citizen of the United States of America, and it appearing to the court from the testimony of Lawrence Delmore and William A. Russell, now offered that said applicant is in all respect duly qualified and entitled to such admission, according to the laws of Congress regulating the naturalization of aliens, and the said applicant upon his oath first duly administered now declares that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and adjure all allegiance and fidelity to every foreign prince and potentate, State or Sovereignty whatever, particularly to Victoria, Queen of Great Britain and Ireland of whom he was a subject. Therefore it is considered that said Edward K. Mather be, and he hereby is, admitted to become a citizen of the United States of America.

CHARLES S. JOHNSON,  
*United States District Judge.*

By Judge WICKERSHAM:

Q. Your father's name was Edward K. Mather?—A. Yes, sir.

Q. When did he die, Mr. Mather?—A. He is alive yet.

Q. There is another Mather here, is there?—A. Yes, sir.

Q. Casper Mather?—A. Yes, sir.

Q. He is a relative of yours?—A. My brother.

Q. Do you own any property here in Ketchikan?—A. Yes, sir.

Q. What business are you in?—A. Well, my former business was contractor, I take contracts around town, rebuilding docks, and I am a machinist; also I have got a store here in Ketchikan.

Q. Where is your store?—A. My store is the first store after you pass the creek toward the south end of Ketchikan.

Q. What sort of a store is it?—A. General merchandise.

Q. Did you pay taxes on your property in 1918?—A. Yes, sir.

Judge WICKERSHAM. I offer in evidence, out of the certified copy of the assessment roll, prepared by the town treasurer, this item with reference to Paul Mather: Mather, Paul, house, fraction lot 15, block 28, value \$250; also merchandise, groceries, property valued \$200, total valuation \$450, tax \$9, paid October 21, 1918.

Q. Mr. Mather, where did you go to school?—A. I went to school at Old Metlakatla and I went to school at Metlakatla, Alaska, until I was 11. I left there and went to school at Sitka, stayed 4 yers, and then to Seattle. Went to South School, in Seattle.

Q. Public schools there?—A. Yes, sir.

Q. You attended with the white children, so there was never any question of that kind?—A. Yes, sir.

Q. Are you married?—A. I am married.

Q. How many children have you?—A. Six children.

Q. How old are they?—A. The oldest is 17 years old and the youngest is 2.

Q. Were you registered for the war, last war?—A. I did.

Q. Where did you register?—A. In the customhouse.

Q. Have you your registration card?—A. I have my registration card.

Q. Where is it?—A. At home.

Q. You don't have it here?—A. No.

Q. Did you ever own any boat?—A. Yes.

Q. When?—A. Year before last.

Q. 1918?—A. 1918.

Q. What sort of a boat was it?—A. About 40 feet long, 28 horsepower.

Q. Did you have papers—any sort of papers—from the Government for the purpose of running the boat?—A. Yes; I got that, too, special; I passed an examination as pilot for southeastern Alaska; steamboat, not gas boat.

Q. Your children go to school?—A. Yes.

Q. Where do they go?—A. St. Johns.

Q. Do they have any chief over to Old Metlakatla—I mean New Metlakatla—in this Territory?—A. No; no more.

Q. Have they abandoned their tribal relations?—A. Yes.

Q. Do they live under any tribal relations?—A. No.

Q. Do you know whether these native people in Ketchikan live under any tribal relations?—A. I don't.

Q. Do they have any chief?—A. Not that I know of.

Q. There has been some attempt here to show that George Johnson is chief of the Ketchikan Indians; what about that?—A. I will tell you all about that; that's his nickname; they call him chief, but he is no chief.

Q. Do the native people recognize him as their chief?—A. No; he is called Chief Johnson, or Custus Johnson.

Q. He is rather an old man?—A. A chief in olden times must have lots of property, two or three thousand dollars worth in blankets and elk skins.

Q. They don't have any chief in Ketchikan?—A. No; no.

Q. Do any of these people wear the old-fashioned Indian costumes?—A. No.

Q. What kind of clothes are you dressed in now?—A. I think you know.

Q. Brown suit; have a watch on, collar, necktie and pin; better dressed than Mr. Grigsby?—A. I have a better pin than he has got, I guess.

Q. Well, don't the natives here generally wear such clothes as you wear?—A. Yes; all of them.

Q. All live in houses built after the American style?—A. After the American style.

Q. Is there such a thing as an Indian tribe here in Ketchikan?—A. No; no more.

Q. How old is your brother Casper?—A. He is older than I am.

Q. Has he got a family?—A. A family.

Q. He was under 21 when your father was naturalized?—A. He can talk for himself.

Q. He was under 21?—A. Yes; under 21.

By Attorney GRIGSBY:

Q. Do you mean to say, do you, Mr. Mather, that all the Indians here in Ketchikan are just as well civilized as you are?—A. Probably better, more than half. Make more money than I do.



Q. Well, does that make them better civilized than you? Can you read and write?—A. Yes.

Q. Can all of them read and write?—A. Not all; more than half can read and write.

Q. Can Mr. Johnson read and write as good as you can?—A. I couldn't tell; that is something I couldn't tell.

Q. Do you associate with the Indians?—A. What do you mean by association?

Q. Do you know what I mean when I say associate?—A. Yes; they come in my store, that is the only association I make with them; they come in there to buy and white men come in there to buy.

Q. You don't associate with Indians outside of that, do you?—A. In what way, playing ball?

Q. Socially; visit their houses?—A. With my relatives I do.

Q. Does Chief Johnson call at you house?—A. No.

Q. Do you go to his house?—A. No.

Q. Does Andy Moses go to your house?—A. No.

Q. Do you go to his house?—A. No.

Q. Do you associate with Joe Starr?—A. I never went to his house; I have met him on the street.

Q. You don't associate with Indians in Indian Town in a social way, do you? What is your object, Mr. Mather, for not telling for whom you voted?—A. I understood it isn't necessary for anybody to tell who they voted for; I don't think it is legal to tell who you voted for.

Q. You can have the right to do it if you want to?—A. That is to be left with me.

Q. What is your reason for not wanting to tell?—A. If you want to be an American citizen you have got to go according to the rules of the United States.

Q. Is there any rule of the United States that forbids you telling how you voted?—A. Oh, yes; it is the rule for voting.

Q. Is there any rule of the United States forbidding it?—A. The rule of voting is that you shouldn't tell.

Q. Has anybody asked you not to tell?—A. I know it myself.

Q. Did anyone advise you not to tell?—A. No.

Q. Have you talked with Mr. Wickersham?—A. Not on this case at all.

Q. He was down to your place the other day?—A. I didn't see him down there.

Q. Did you see him anywhere?—A. I saw him at Hunt's, oh, about two months ago.

Q. Did you see him within the last week?—A. I saw him; yes.

Q. Did he talk with you last week?—A. Yes; not on this case.

Q. Where did you talk with him?—A. Revilla Hotel, on that side.

Q. Did he send for you?—A. No.

Q. Did somebody ask you to go and see him?—A. My children can't go to the white school up here and I have talked with him about it, why my children can't go to school up here. I heard he was in town.

Q. Did you talk with him about this case at all?—A. No.

Q. Not a word?—A. No.

Q. Have you talked with anybody else about this case besides me since you were subpoenaed?—A. Dick Harris.

Q. Who is Dick Harris?—A. Another merchant. He asked me who I voted for and I told Dick Harris it was my business. That is all he said.

Q. Did you talk with any white man about this case since you were subpoenaed?—A. No.

Q. With Bob Oliver?—A. No; never met Bob until to-day.

Q. Did anybody tell you that you didn't have to answer the question as to whom you voted for?—A. No.

Q. Nobody ever told you that?—A. No.

Q. At any time?—A. No; when Lucy handed me the subpoena and Dick Harris was there and said who did you vote for and I said that is my business. When he first handed me the subpoena and I looked and saw I would have to be up here at 10 o'clock this morning and Dick Harris asked who I voted for and I said that is my business. That is all I told him.

PAUL J. MATHER.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON.

Notary Public.

## DEPOSITION OF CASPER H. MATHER.

CASPER MATHER called and sworn.

By Attorney GRIGSBY:

Q. State your full name.—A. Casper H. Mather.

Q. Where do live?—A. I live in Ketchikan.

Q. How long have you lived in Ketchikan?—A. Since I lived here, about eight years.

Q. Did you vote last year—last election?—A. All the time—vote.

Q. Did you vote last year—last election?—A. I did; yes.

Q. Who did you vote for?—A. Judge Wickersham.

Q. Anybody else?—A. No; I voted for other people, but different offices.

Q. Who else?—A. I have forgot; I don't remember.

Q. What offices did you vote for?—A. Wickersham is my choice for Delegate to Congress.

Q. What other offices did you vote for?—A. Other fellow is for the Alaska Legislature.

Q. Did your brother vote for Wickersham, too?—A. I don't know.

Q. Did he ever tell you?—A. No.

Q. You never talked to him about it?—A. I don't know. I know how I voted.

Q. Did you ever talk to him as to who was the best man to vote for?—A. No.

Q. You work with him?—A. Sometimes I am.

Q. Were you working with him just before election?—A. Sometimes I have been along with him.

Q. You never talk politics?—A. Not about that.

Q. Where were you born?—A. British Columbia.

Q. Are you an Indian?—A. Well, we are known as Tsimpseans—no Indian. I wouldn't admit that I am Indian. I object to that I am Indian.

Q. Tsimpsean is a tribe?—A. A certain tribe of British Columbia natives, not Indians; I belong to a certain corner or division of British Columbia.

Q. But they are natives of British Columbia?—A. But they are natives of British Columbia.

Q. You are not Esquimo?—A. No; Tsimpsean.

Q. They are not white people?—A. No.

Q. Not Japs?—A. No; certain tribe called Tsimpsean.

Q. Don't you know you are known as Indians?—A. I don't know that.

Q. How old were you when you came to Alaska?—A. Probably about 8 years—something along there.

Q. How old are you now?—A. I am about 40 years old; I am a little older than Paul, about 11 months older than he was.

Q. How old is he?—A. I know when I was born.

Q. When were you born?—A. Born 1878, 3d day of December, British Columbia, Metlakatla.

Q. Your children go to school?—A. There is no school here.

Q. There is no school here?—A. They didn't go to school here; I have got them going to school at Metlakatla—send one over there to attend school in Metlakatla.

Q. Do Paul Mather's children go to school there?—A. The little kids go to school, not the grown girls.

By Judge WICKERSHAM:

Q. Casper, what is your business?—A. I have been a steamboat captain for quite a while.

Q. Have you papers as captain?—A. Yes, sir.

Judge WICKERSHAM. I offer in evidence this man's certificate or license as pilot, dated August 1, 1917, signed by the inspector of hulls and inspector of boilers for this division.

The Witness. That is my third issued; it is 15 years ago since I started to that; that is the last ticket.

By Judge WICKERSHAM:

Q. You have been a licensed pilot for 15 years?—A. Yes, sir.

Judge WICKERSHAM. I ask to have it copied in the record and the original returned to Mr. Mather.

(Original copied by the stenographer, as follows:)

## UNITED STATES INSPECTORS' LICENSE TO PILOTS.

This is to certify that Casper H. Mather has given satisfactory evidence to the undersigned local inspectors of steam vessels for the district of Juneau, Alaska; that he is a skillful pilot of steam vessels and can be intrusted to perform such duties upon the waters of southeastern Alaska between Dixon entrance and Wrangell, on east side of Prince of Wales Island; and he is hereby licensed to act as second-class pilot on inland steam vessels of 100 gross tons for the term of five years from this date upon the above-named route.

Given under our hands this 1st day of August, 1917.

PETER G. PELTRET,  
*Inspector of Boilers.*

GEORGE H. WHITNEY,  
*Inspector of Hulls.*

[On reverse side.]

Passed examination for color blindness June 5, 1917. Surgeon's certificate on file in the office of United States local inspectors at Juneau, Alaska, as per indorsement upon surrendered license No. 17899.

GEORGE H. WHITNEY,  
PETER G. PELTRET,  
*United States Local Inspectors of Steam Vessels,  
District of Juneau, Alaska.*

The WITNESS. I am doing something else now.

Q. But for 15 years you have been a licensed pilot?—A. Yes, not continually, but off and on.

Q. But you had a license all the time?—A. Yes.

Q. Have you owned boats?—A. Yes, little boat; don't run it.

Q. You don't run it?—A. No, just fooling around.

Q. You are a machinist?—A. Yes, sir.

Q. Have you got a machine shop?—A. Yes.

Q. Where?—A. Down close to the bridge.

Q. In the town of Ketchikan?—A. In the town of Ketchikan.

Q. What do you do in that machine shop?—A. Blacksmith work, repair work, and machine work.

Q. And do you carry on the business yourself?—A. Me and Paul.

Q. Both are interested in it?—A. Something like that.

Q. Do you repair boilers and engines?—A. Put parts on boilers, repair gas engines, do blacksmith work, shop and machine work of any kind.

Q. How long have you been doing that kind of work?—A. Ever since my father was a blacksmith and I follow something like that all the time most of my life.

Q. Your father was a blacksmith?—A. He was.

Q. He followed that in this Territory?—A. All the time, he was a blacksmith.

Q. Do you own the property there where you carry on the machine shop?—A. Yes.

Q. Machine shop, buildings, and ground?—A. Machine shop, buildings and ground and all.

Q. And you have a machine shop established there, tools and all kinds machine work apparatus, lathes, etc.?—A. Yes, everything that machine shop has.

Q. It is a large machine shop?—A. No, small one.

Judge WICKERSHAM. I now offer in evidence from this certified copy of the assessment roll of the town of Ketchikan for 1918, so much of it as has reference to this particular witness. (Reads:) Casper Mather, shop building, fraction of lot 10, block 28, realty \$350, machine shop equipment, personalty \$200, total valuation \$550, tax \$11, date of payment September 23, 1918.

Q. Where did you go to school at, Mr. Mather?—A. Different places, in Metlakatla, New Metlakatla, Sitka Industrial Training School.

Q. How long did you go to the Sitka Industrial Training School?—A. Now I don't remember, started with my brother, not much, mostly at Duncan's school at Metlakatla.

Q. How long have you lived in your home here in Ketchikan?—A. Something around eight or nine years.

Q. All the time?—A. All the time.

Q. Was your family with you all the time?—A. My family was with me all the time.

Q. I notice you are well dressed, you have a good suit on, do the rest of the native people here wear clothes similar to what yours are?—A. Some; yes.

Q. Do they have any chief among the native people here in Ketchikan?—A. Not here.

Q. Don't have any in Metlakatla?—A. No.

Q. And you don't recognize any chief of any kind?—A. No.

Q. There is no tribe of Indians you belong to in anyway?—A. No.

Q. Did I ask you if you registered as a United States soldier in the last war?—A. I did.

Q. Here in Ketchikan?—A. In Ketchikan.

Q. You were not called?—A. No.

Q. You live in your own home; who else lives there?—A. Myself and my wife and children.

Q. What kind of a home have you got?—A. Fairly good enough place.

Q. Do you belong to any organizations or societies?—A. No, I don't belong to anything here.

Q. Did you belong to the Alaska Labor Union?—A. No, I didn't belong to that.

Q. What boats did you run on as pilot?—A. Steamship *Harold*, tugboat.

Q. What others?—A. Steamships and gas boats, sawmill boat *Vigilant*; I was master of her for sometime.

Q. She was a sawmill tugboat?—A. Yes.

By Attorney COSGROVE:

Q. Is there anybody in that business down there besides you and Paul?—A. What do you mean?

Q. Just you two there?—A. Yes.

Q. You have a grocery store and machine shop?—A. Yes.

Q. And you have charge of the grocery store?—A. The shop.

Q. The machine shop?—A. Yes.

Q. And Paul takes care of the grocery store?—A. Something like that.

Q. And I suppose when you are out of town he does the machine work?—A. Something like that.

Q. And when he is out of town you sell the groceries?—A. Yes, I help.

By Attorney GRIGSBY:

Q. Isn't it true that Paul's daughters, girls, work in the store also?—A. Yes.

By Attorney COSGROVE:

Q. In which department, machine shop or groceries?—A. Groceries.

CASPER H. MATHER.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON, *Notary Public*.

#### DISPOSITION OF JOSEPH JOHN.

JOSEPH JOHN, sworn.

By Attorney COSGROVE:

Q. What is your name?—A. Joseph John.

Q. Where do you live?—A. I live here in Ketchikan.

Q. Are you a married man?—A. Yes, sir.

Q. How long have you lived here?—A. I have been living here since born.

Q. Were you born here?—A. Yes.

Q. What tribe of Indians do you belong to?—A. Thlinket.

Q. You know Chief Johnson of the tribe?—A. Yes.

Q. Did you live here last November?—A. Yes, sir.

Q. Did you vote?—A. Yes, sir.

Q. For whom did you vote?—A. That is for me to know.

Q. Is that so; won't you let us in on it?—A. No; I don't think so.

Q. Why; why won't you tell us?—A. I don't have to tell you.

Q. Who told you that?—A. I have been listening all these people remark.

Q. You have heard it here?—A. I can tell you if you want to.

Q. Yes; please do?—A. I vote for Wickersham.

Q. How did you happen to vote for Wickersham?—A. Well, I heard he was for fishermen, so papers say.

Q. Who told you that?—A. All papers.

Q. What papers?—A. Ketchikan papers.

Q. Ketchikan Times?—A. Yes.

Q. You read the Ketchikan Times, do you?—A. Yes, sir.

Q. Did some white man tell you that too?—A. No; nobody told me.

Q. And you have talked with a lot of white men about the election?—A. No, sir.

Q. What office was Mr. Wickersham running for that time? Do you remember?—A. I didn't know.

Q. Did you vote for anybody else except Wickersham?—A. No, sir.

Q. Did anybody come to the polls with you?—A. No, sir; nobody—just came in from street into the room.

Q. How did you find out how to vote; what to do?—A. Just showed be how to make a cross.

Q. Who did that?—A. Some of these boys— people— four or five, I think.

Q. Who showed you, Mr. Hunt?—A. I forgot.

Q. Did he go into the booth with you?—A. No, sir; I went alone.

Q. Where were you when you voted; how did you vote?—A. Right here in this table.

Q. You don't remember the time?—A. I forgot.

Q. Do you know Mr. Oliver?—A. I know him; yes.

Q. Wasn't it him who showed you how to vote?—A. No.

Q. Are you sure about that?—A. Yes, sir.

Q. But you don't remember who it was?—A. I don't remember who.

Q. Was it Mr. Stackpole, Harvey Stackpole?—A. I couldn't tell.

Q. You don't remember that? You don't remember that it wasn't Mr. Stackpole or Bob Oliver?—A. I don't know.

Q. Did you ever vote before last November?—A. No, sir.

Q. How old are you?—A. Well, I must be pretty close to 30.

Q. How did you happen to come here to vote last year when you never voted before?—A. I know, I thought I am born in Alaska, Russia sold Alaska to the United States, ought to be we can.

Q. But you never voted before. How did you happen to come and vote at that time; who got you to come up here?—A. I saw other people coming up.

Q. What other people?—A. Native people.

Q. Did you talk it over with them?—A. No; many come up here.

Q. State who they were.—A. Some of our native people.

Q. Don't you remember who?—A. Lots of them.

Q. And they got you to come up here?—A. Told me and I come up here myself.

Q. You talked with them?—A. No; I didn't talk with them.

By Judge WICKERSHAM:

Q. Mr. Johns, are you married?—A. Yes, sir.

Q. How much of a family have you?—A. Three now.

Q. And you were born and lived in Ketchikan all your life?—A. I have been back East to school.

Q. Where did you go to school?—A. Carlisle.

Q. How long did you go to the Carlisle school?—Five years.

Q. And you read and write, then, of course?—A. Yes.

Q. You know that Mr. Sulzer was a candidate last November also?—A. Yes, sir.

Q. And Mr. Wickersham was a candidate?—A. Yes, sir.

Q. And you know they were candidates to go back to Washington to make laws?

Attorney GRIGSBY. Let the witness testify, Judge.

By Judge WICKERSHAM:

Q. You know that all, don't you?—A. I know.

Q. But you didn't know the title of their office?—A. No; I didn't know.

Q. Where do you live, Mr. John?—A. I live on this side of the creek.

Q. In your own house?—A. Yes, sir.

Q. You possess the property there yourself?—A. Yes, sir.

Q. How many rooms in your house?—A. Two.

Judge WICKERSHAM. I read from this certified record, furnished me by the town treasurer, so much of it as has reference to this witness:



"Joe John; cabin; fraction of lot 19, block 17; realty, \$100; total valuation, \$100; tax, \$2; date of payment, November 4, 1918; penalty, 30 cents."

Q. Have you paid any school tax, Mr. John—\$5?—A. Not as I know of.

Q. Are your children old enough to go to school?—A. No.

Q. Do you belong to the Alaska labor union?—A. Yes, sir.

Q. What other society or organization do you belong to?—A. Just the Alaska labor union.

Q. How long did you reside in Ketchikan before you voted last November,—several years?—A. I stay here.

Q. Before you voted last November?—A. About 10 years—10 or 11 years.

Q. What business are you in?—A. Fishing.

Q. Do you own a fish boat?—A. No.

Q. Who do you work for?—A. Use cannery boat this last summer.

Q. What cannery?—A. Nakat Inlet.

Q. What do you do—general work for the cannery?—A. No; seining.

Q. What did you do on the cannery boat?—A. Cannery seine boat.

Q. What were you doing?—A. Working on the boat.

Q. In what way; were you captain?—A. Yes, sir.

Q. Have you a license—papers?—A. Didn't have to have license.

Q. But you had charge of the boat?—A. Yes, sir; just master.

Q. The boat belonged to the cannery company?—A. Yes, sir.

Q. You say that you belong to the Thlinket race?—A. Yes, sir.

Q. Do they have any chief among the Thlinkets here in Ketchikan?—A. Well, used to have long time ago; not now, I don't think.

Q. You don't recognize any chief yourself, do you?—A. No, sir.

Q. Do you try to live like white men, do you?—A. We try to.

Subscribed and sworn to before me this 11th day of October, 1919.

\_\_\_\_\_, *Notary Public.*

#### DEPOSITION OF EDWARD R. RIDLEY.

EDWARD R. RIDLEY called and sworn.

By Attorney GRIGSBY:

Q. What is your full name?—A. Edward R. Ridley—Edward Robert Ridley.

Q. Where were you born?—A. Metlakatla, Alaska.

Q. Where do you live now?—A. Live here in Ketchikan.

Q. How long have you lived in Ketchikan?—A. Ten years.

Q. Continuously?—A. Yes.

Q. In what part of Ketchikan?—A. Down in Indian Town.

Q. Did you vote last election—last November?—A. Yes, sir; I voted.

Q. How old are you?—A. I will be 24 this coming January 11.

Q. For whom did you vote?—A. Isn't that my business to tell whom I voted for.

Q. If you want to, you can; if you don't want to, you don't need to.—A. Well, I understand myself when I vote I wasn't going to tell anybody.

Q. Have you any reason for not wanting to tell?—A. Yes.

Q. What is your reason?—A. Because when I vote I told myself not going to tell anybody whom I vote.

Q. What is your object for not telling now for whom you voted? Have you any real object for not telling whom you voted for?—A. I suppose if I tell who I vote now, it will be all off.

Q. All off, how?—A. You know how my vote, when I vote I wasn't supposed to tell anybody.

Q. What makes you think of it; do you think your vote will be thrown out if you tell?—A. It is my idea.

Q. You think your vote is legal, don't you?—A. Yes, sir.

Q. If it was legal you don't think it would be thrown out, do you?—A. I don't know.

Q. The reason you don't want to tell is because you are afraid it may hurt Mr. Wickersham in his contest?—A. Yes.

Q. That is the reason?—A. Yes, sir.

Q. Had you ever voted before the last election?—A. I was under age during the time.

Q. You would be 22, then, last November, 23 last January?—A. Yes, sir.

- Q. Was your father a native of Alaska?—A. Yes.  
 Q. What was he—a Tsimpsean?—A. Yes, sir.  
 Q. He was born in Alaska?—A. No; born over in British Columbia.  
 Q. Do you know when he came to Metlakatla, Alaska?—A. No; I was born over here.  
 Q. You were born over here on this side?—A. Yes, sir; that is all I know.  
 Q. Do you live here all the time in Ketchikan?—A. Yes, sir.  
 Q. Don't you live in Metlakatla at all?—A. Yes, sir.  
 Q. Are you married?—A. Yes, sir.  
 Q. Have you a house here?—A. Part owner of a house.  
 Q. Who owns the other part?—A. My father.  
 Q. And how long since you lived in Metlakatla?—A. It has been 10 years ago since we left, and I only go over just on holidays.  
 Q. You haven't been over there to reside at any time?—A. No, sir.

By Judge WICKERSHAM:

- Q. Mr. Ridley, where did you go to school?—A. I went to school at the Cushman School in Tacoma five years.  
 Q. You read and write English?—A. Yes, sir.  
 Q. You read the newspapers?—A. Yes, sir.  
 Q. The magazines?—A. Magazines of all kinds.  
 Q. And are dressed just like the other gentlemen here in the room now?—A. I suppose I am, trying to.  
 Q. I notice you have a button on there. What is that?—A. Victory loan button.  
 Q. Do they recognize any chief among the native people here in Ketchikan?—A. Not what I know of.  
 Q. You don't recognize any?—A. Nobody.  
 Q. Does your father?—A. I don't think so.  
 Q. Do you know any people who do?—A. No.  
 Q. Don't recognize any laws except those of the United States?—A. No, sir.  
 Q. You were taught down to the Cushman School to be a citizen of the United States and to love the country, weren't you?—A. Yes, sir..  
 Q. Were you registered in the last war, Mr. Ridley?—A. Yes; I was registered.  
 Q. Were you registered?—A. Right here in Ketchikan, at the custom-house.  
 Q. Have you got your registration card?—A. Yes, sir.  
 Q. Have you got it with you?—A. Yes, sir.

(Judge Wickersham reads same into the record, as follows: "Registration certificate. To whom it may concern, greetings: These presents attest that in accordance with the proclamation of the President of the United States and in compliance with law, Edward Robert Ridley, of Ketchikan, Alaska, has submitted himself to registration and has by me been duly registered this 5th day of November, 1918, under supervision of the local board designated on the back thereof. E. G. Keaney, Registrar." On the back of it: "Local board No. 4, city of Ketchikan, Ketchikan, Alaska.")

- Q. What is your business, Mr. Ridley?—A. I am just a common laborer—fishing.  
 Q. Do you own property here in Ketchikan? Do you own an interest in property?—A. Yes, sir; an interest in property.  
 Judge WICKERSHAM. I want to read into the record the description of property, etc., standing under the name of this man [reads]:  
 Ridley, Robert; house; lot 2, block 27; value, \$550; total valuation, \$550; tax, \$11; paid October 11, 1918."  
 Q. Is that your property and whose?—A. It is my father's.  
 Q. Your father's property?—A. Yes.  
 Q. Is it the property you have an interest in?—A. Yes.  
 Q. Where you reside?—A. Yes.  
 Q. Do you belong to the Alaska labor union?—A. Yes, sir; I belong.  
 Q. Do you belong to any other associations or unions?—A. No, sir; not here.  
 Q. What papers do you read, Mr. Ridley?—A. Why, I read all my papers.  
 Q. Magazines?—A. Magazines, newspapers.  
 Q. Do the native people here live after the style of white people—native people here in Ketchikan?—A. Yes, sir; seem to.  
 Q. They don't have any tribal relations?—A. No.  
 Q. And all live in their own homes?—A. Yes.

Q. Some own their homes and others rent them?—A. Yes.

Q. And live around among the white people?—A. Yes, sir.

By Attorney Garsen:

Q. When is that registration card dated?—A. November 5.

Q. Last year?—A. Yes, sir.

Q. You never registered before that?—A. I was sick; I had the flu.

Q. How long did you have the flu?—A. Three weeks.

Q. Prior to the time you had the flu, you never registered?—A. No, sir.

Q. Do you know when the registration was on the first time?—A. Yes, sir.

Q. When?—A. I couldn't remember the date; I couldn't say the date.

Q. What year was it? You didn't register in the first registration?—A. I couldn't; we tried; good many boys tried, but refused us.

Q. You tried yourself?—A. Yes, sir.

Q. Who did you go to?—A. Local board here.

Q. Do you know why you were refused?—A. They refused natives; all, I understand, first place; good many boys tried it.

Q. They refused you because you were natives?—A. Yes, sir.

Q. Didn't consider you as citizens?—A. Not until in the fall.

Q. Last fall?

By Judge WICKERSHAM:

Q. Isn't it true the reason was because they were going to try to get up a native contingent, separate and apart from the others? What do you know about that?—A. What do you mean; to live separate?

Q. What I meant to ask, didn't they refuse you because they were preparing to enlist all the native people in one class or in one organization? What do you know about it?—A. Yes; I think I do; a good many boys I went to school with down in the Sound, they were registered in the first place; just didn't register, except in Alaska.

Q. All the people in Alaska were registered a long time after the people down below, weren't they?—A. Yes, sir.

EDWARD R. RIDLEY.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

DEPOSITION OF HERMAN RIDLEY.

HERMAN RIDLEY, called and sworn.

By Attorney Garsen:

Q. State your full name.—A. Herman Ridley.

Q. How old are you?—A. Twenty-two.

Q. Younger than your brother?—A. Yes, sir.

Q. You voted at the last election?—A. Yes, sir.

Q. For Mr. Wickersham?—A. Yes, sir.

Q. Was that the first time you ever voted?—A. Yes.

Q. Where were you born?—A. Metlakatla, Alaska.

Q. How long have you lived in Ketchikan?—A. Ten years.

Q. That has been your home all the time?—A. Yes.

Q. Did you register last fall?—A. Yes; I registered.

By Judge WICKERSHAM:

Q. Where do you live?—A. Swansons Hill, here.

Q. You live with your folks?—A. Robert Ridley.

Q. Robert Ridley is your father?—A. Yes, sir.

Q. And you are a brother of Ed Ridley, who was just on the witness stand?—A. Yes, sir.

Q. I notice you have a pin on. What is that?—A. American flag, I suppose.

Q. Where did you go to school?—A. Tacoma, Wash., Cushman School.

Q. How long did you go to school there?—A. Two years.

Q. Did you go to school anywhere else?—A. Duncan's school, in Metlakatla, five years.

Q. Can you read and write?—A. Yes.

Q. You read the newspapers and magazines?—A. Yes, sir; everything.

Q. Do you belong to the Alaska labor union?—A. Yes, sir.

Q. Do the native, young native, men around Ketchikan dress about like you do?—A. Some; can't say all of them.

Q. Well, they don't maintain any tribal relations, any of them—don't have a chief?—A. No, sir.

By Attorney GRIGSBY :

Q. How did you come to vote last fall?—A. I was thinking I had age enough, so I could vote.

Q. Anybody talk to you about?—A. No, sir.

Q. Did you read the newspapers about the political issues?—A. Yes, sir; I read some—a few.

Q. And what papers?—A. Some papers in town, for quite a while.

Q. What papers?—A. Miner; used to be the Ketchikan Miner.

Q. Who is Marlam Ridley?—A. She is supposed to be married to one of my cousins.

HERMAN RIDLEY.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

DEPOSITION OF JOE STARR.

JOE STARR, called and sworn.

By Attorney GRIGSBY :

Q. What is your name?—A. Joe Starr.

Q. Where were you born, Joe?—A. I born Alaska.

Q. What part?—A. Port Tongass.

Q. How old are you?—A. I am over 50 years.

Q. Did you vote last election—last November?—A. Yes, sir.

Q. Here in Ketchikan?—A. Here in Ketchikan.

Q. Who did you vote for?—A. I told you before.

Q. Wickersham?—A. You speak me before, and I tell you.

Q. And you told me that is Wickersham?—A. Yes.

Q. Did anybody come with you to the place to vote?—A. Nobody; everybody go out all the time.

Q. Who come up here with you?—A. I forget with me; lots of people, some natives.

Q. Did you talk to any white man about voting?—A. No; I never talk.

Q. Who told you you had a right to vote?—A. Some of my people.

Q. Do you know which one?—A. I don't know which one; I forget.

Q. All your people came up to vote?—A. Yea.

Q. Do you know who told them they had the right to do that?—A. No; I hear Mr. Wickersham is Christian; he help the poor man like me, and that is all I hear.

Q. Who did you hear say that you natives all had a right to vote?—A. Some our people read the newspapers, and they tell us.

Q. Did the newspapers tell you had the right to vote?—A. No.

Q. Who told you you had a right to vote; you never voted before?—A. Nobody tell me.

Q. You lived in Alaska 50 years?—A. Yes.

Q. Last November the first time you ever voted?—A. First time.

Q. How did you come to vote last November?—A. All my people came here to vote.

Q. And what are you—a Thlinket?—A. Yes; Thlinket.

Q. They all came up here to vote?—A. Yes.

Q. How many of them?—A. I can't count how many.

Q. None of them ever voted before?—A. No, sir.

Q. Who told them they could vote?—A. Nobody.

Q. Why didn't you vote in 1916, three years ago? Why didn't you vote then?—A. Never vote.

Q. Why not?—A. Well, I didn't hear.

Q. Do you know what white man it was said you could vote last fall?—A. No.

Q. Do you know Bob Oliver, this gentleman sitting over here; do you know him?—A. I know him, but I don't know his name; I know his face, all right.

Q. And he talked with you?—A. I guess I talk with him; I forget who talk for me.

Q. Did he tell you you had a right to vote? Did he tell you you could vote?—A. I don't know what stay [you say].

Q. What did he tell you?—A. I don't know; I forget stay [he say]. I vote; that is all, all I know.

Q. Who marked the ballot for you, Joe?—A. Mr.—I can't hear this hard words; I haven't school much.

Q. Who marked the paper for you when you voted?—A. I mark myself.

Q. Who showed you how?—A. Just gentleman around here give me paper; that is all.

Q. What office was Mr. Wickersham running for?—A. What office, you mean?

Q. Yes?—A. Right here.

Q. Do you know what office Mr. Wickersham was running for?—A. No.

Q. Did you vote for anybody else besides Wickersham?—A. No.

Q. Just for Wickersham?—A. Yes.

Q. Did you mark the paper yourself?—A. I think write name; that is all.

Q. Did you mark a cross on the paper?—A. Yes; I make a cross.

Q. And you went into the booth and made a cross, did you? Where did you make that cross; what part of the room?—A. Around here; room here; this side [indicating].

Q. Did anybody go over there with you to show you how to make it?—A. Nobody.

Q. And you read what was on the ballot?—A. No; I couldn't read.

Q. You couldn't read what was on that paper?—A. No.

Q. Who showed you where to put the mark?—A. I forget.

Q. Some man here?—A. Lots of people.

Q. Mr. Hunt?—A. Maybe Mr. Hunt; I don't know.

Q. You live in Indian town?—A. Yes; Ketchikan our home.

Q. How long have you lived in Ketchikan?—A. As long as before first start here cannery; that time we live here.

Q. You are a subchief, are you, Joe?—A. Long time now; my name Joe Starr.

Q. You were chief?—A. No I am chief.

Q. Weren't you a kind of a chief once?—A. No; I don't believe chief; our people no use, no count.

Q. Long time chief?—A. Lots of savages; not now.

Q. Long time ago?—A. Uncle, uncles, grandfathers; long time.

Q. And you are from the most intelligent branch of the Thlinkets, then?—

A. That is a hard one.

Q. Is Johnson chief?—A. Yes; he is chief.

Q. Same tribe?—A. Same tribe.

Q. Bigger chief than you were?—A. He don't do now.

Q. When he was a chief, was he bigger than you were?—A. Just the same; long time, not now.

Q. You go to his house?—A. I go to his house.

Q. That is tribal house, isn't it?—A. Yes.

Q. You have meeting there?—A. No meeting, nothing.

Q. You have meeting?—A. No, no.

Q. You can't read?—A. What?

Q. You can't read?—A. I can't read.

Q. You just write your name?—A. Just write name now.

Q. You don't know, do you, Joe, why all the natives came up to vote last fall? You don't know who told them to do that?—A. No; I don't know who told them.

Q. How many natives, your people, came up here to vote?—A. I don't know; I can't count.

Q. Twenty?—A. Maybe 20; I don't know; the man keep on the paper.

Q. Do you know how many 20 is?—A. I know.

Q. Were there that many?—A. I don't know.

Q. More than that?—A. I don't know.

Q. They all came up?—A. No.

Q. They didn't all come up?—A. I hear they all go out; after I stay I can't count.

Q. They kept coming in all the time?—A. Yes.

Q. Lots of them?—A. Lots of them.

Q. All vote for Wickersham?—A. I don't know.

Q. You think so?—A. Oh, I don't know.

Q. You think so?—A. I don't know.

Judge WICKERSHAM. That is not the best evidence.

Attorney GRIGSBY. We are not asking for the best evidence.

Q. Do you believe they all voted for Wickersham?—A. No; I know myself.

Q. They all talked for Wickersham?—A. I know that is.



Q. You heard lots of talk?—A. I heard just one fellow; my friend, he is down in Victoria; he read the newspaper; he gone to Victoria, British Columbia.

By Judge WICKERSHAM:

Q. Joe, isn't it true that all the natives over at Hydaburg voted in 1916? The Indians over at Hydaburg voted in 1916 for Mr. Sulzer? Did you hear that?—A. I don't know.

Q. You didn't know anything about Mr. Hibbs and those people over to Klawak trying to vote all the Indians at Klawak and Hydaburg in 1916, two years before you voted; you didn't know that?—A. I don't know that.

Q. You own some property here in town?—A. Yes, sir.

Q. Where is your property?—A. On that side.

Q. Your name is Joe Starr?—A. Yes.

Judge WICKERSHAM. I want to read into the record the item in this certified list of taxpayers of Ketchikan; that item relating to this particular witness [reads]:

"Starr, Joe; house; lot 16, block 17; value, \$500; total valuation, \$500; tax, \$10; paid October 15, 1918."

Q. How long have you owned that house, Joe?—A. Two years now.

Q. You were living there when you voted in November?—A. Yes.

Q. How many children have you?—A. Well, I had four; now some died.

Q. Wife and four children?—A. Yes.

Q. What is your business?—A. What business? Fishing.

Q. Fisherman?—A. Yes.

Q. Did you ever own a boat?—A. Yes sir.

Q. What kind of a boat?—A. Small boat.

Q. Gas boat?—A. Gas boat.

Q. Do you run it yourself?—A. I run.

Q. Can you repair it and fix it when it is broken?—A. Yes; we fix it.

Q. Who did you fish for?—A. Starr Collison.

JOE STARR.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

DEPOSITION OF GEORGE KEEGAN.

GEORGE KEEGAN called and sworn.

By Attorney GRIGSBY:

Q. What is your name?—A. George Keegan.

Q. Have you got any other name?—A. That is my name, real name, George Keegan.

Q. You have got some other names?—A. That is all.

Q. Is that the only name you go by?—A. Yes.

Q. What are you, a Thlinket?—A. Yes.

Q. You live in Ketchikan?—A. Yes.

Q. How long have you lived in Ketchikan?—A. Oh, a long time.

Q. You live down here in Indian Town?—A. Yes.

Q. Do you own your house?—A. No, just renting house; I born in Metlakatla, you know.

Q. You were born in Metlakatla?—A. Yes.

Q. But you are not a Tsimpsean?—A. My father had a little farm and log cabin at Metlakatla, and when people moved there we had home there before.

Q. How long have you lived in Ketchikan?—A. Around here over 10 years now.

Q. You were here last November?—A. Yes.

Q. At the time of the election?—A. Yes.

Q. Did you vote here?—A. Yes.

Q. And for Mr. Wickersham?—A. Yes; I told you before when up in your room.

Q. What office was he running for?—A. Who?

Q. Mr. Wickersham?—A. Well, I don't know.

Q. Did you vote for anybody else?—A. I don't know; I know I vote him.

Q. Did you vote for anybody else besides him?—A. I forgot; two or three besides.

Q. Is that the first time you ever voted?—A. Yes.

Q. How old are you?—A. Thirty-two.

Q. How long had you been living in Ketchikan last November?—A. About 10 years now since I have been living in Metlakatla, around Ketchikan, all the time.

Q. Haven't you been back to Metlakatla at all?—A. No.

Q. Are you married?—A. Yes.

Q. How long have you been married?—A. About 12 years.

Q. Were your family here then?—A. Yes.

Q. All that summer?—A. Yes.

Q. You were here all summer?—A. No; out myself fishing.

Q. When you were not out fishing you were in Ketchikan all the time?—A. Yes.

Q. You never went back to Metlakatla?—A. No; never go back.

Q. How did you happen to vote last November?—A. Only time we know have right to vote, before we no. Like we don't know nothing, like we blind; but last year got to vote; we belong to Alaska and vote right.

Q. Was last year the first time? And before that you had the right to vote but didn't know it?—A. Didn't know nothing; last year on account of war when our come here to be registered none of us say no; just go on Uncle Sam says, belong to him.

Q. When did you register?—A. Last year.

Q. What time?—A. This time—fall time.

Q. In November? Have you got a card?—A. No.

Q. Did you register in November?—A. Same time boys register; the first time didn't have to register.

Q. Do you know what month it was you registered?—A. I think October some time.

Q. Who told you last fall you boys had the right to vote?—A. We know we have a right just.

Q. Who told you that?—A. We just know that from the time had to register like any white man.

Q. Nobody told you?—A. Nobody told.

Q. No white man talked to any Indians about it at all?—A. No; not that I know of; we know we have got the right to vote.

Q. No white man talked to you about it?—A. No white man tell to vote.

Q. No white man told you to register so you could vote?—A. No wanting, Ketchikan Miner, if saw, got to go and register.

Q. After that no white man talked to you about politics?—A. No; I don't know.

Q. Didn't Mr. Oliver?—A. This fellow [indicating].

Q. Yes; did he talk to you?—A. No.

Q. Harvey Stackpole?—A. No; I know him but he never talk me.

Q. Did anybody help you to mark your ballot?—A. Nobody help, and give me paper, was in there card over there, one room for each man.

Q. You marked it yourself?—A. I know fellows can; I put cross and two other names.

Q. You can read?—A. Yes.

Q. Had you seen a sample ballot before that, so you would know his name?—

A. I see in newspaper his picture and his name.

Q. You are perfectly sure, are you, that nobody talked to you about who to vote for or told you you had a right to vote?—A. We never hear nothing about that before; it was our first time last year; they say got right to vote like anybody.

Q. And you all came up and voted?—A. Yes.

Q. How many?—A. I don't know.

Q. About how many?

By Judge WICKERSHAM:

Q. I object; it is not the best evidence; the lists show; the registration list is the best evidence.

By Attorney GRIGSBY:

Q. About how many?—A. I couldn't tell; I can't tell correct.

Q. Then, tell your truest and best estimate.—A. I don't know how many the natives.

Q. You haven't any idea?—A. No.

Q. A good many?—A. A good many over 30, I think.

Q. Over 30?—A. Something like that. Over 30 in Ketchikan now, about 50 then.

Q. All voted?—A. Yes.

By Judge WICKERSHAM:

Q. George, did you ever go to school?—A. No; over here.

Q. How long?—A. About one year at St. John's School before.

Q. You can write your name?—A. Name.

Q. You read?—A. Little bit.

Q. Where do you live?—A. Ketchikan, all the time.

Q. Have you got a home of your own?—A. Just renting house.

Q. What work do you do?—A. Fishing all the time.

Q. Do you own a gas boat?—A. No; just run boat any time.

Q. Who do you run a boat for?—A. Running boat Quadra Bay last year.

Q. What do you do on the boat?—A. Fishing; seine fishing.

Q. Do you belong to the Alaska labor union here?—A. Yes.

Q. You registered for the war?—A. Yes.

Q. Have you got a registration card?—A. No; I haven't got with me now.

Q. Did I ask if you are married? Are you married?—A. Yes.

Q. How many children?—A. Two.

Q. You rent a house?—A. Yes.

Q. What kind of a house, Joe—George?—A. Good house; pay \$15 a month.

Q. Fifteen dollars a month rent here in Ketchikan?—A. Yes.

Q. House like white people live in?—A. White people house.

Q. You are dressed now just like fishermen do; other white men?—A. Yes.

Q. And you rent that house from a white man?—A. Yes; from a white man.

Q. Do you have any chief?—A. No; don't go by chief; used to have chiefs here long time ago.

Q. But no longer?—A. Not lately, no chief; only call Chief Johnson just because he got that name long time, but we don't go by his word.

Q. George Johnson is not chief here, is he?—A. No; just call him Chief Johnson; long time start to call him.

Q. Is Billie Dickinson a chief?—A. I don't know.

Q. You don't know of any chief around?—A. Don't remember them; no.

Q. There is no chief over to Metlakatla?—A. No.

Q. You live among the white people?—A. Yes.

Q. And live like they do?—A. Yes; nothing different.

GEO. KEEGAN.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON, *Notary Public*.

#### DEPOSITION OF GEORGE JAMES.

GEORGE JAMES called and sworn.

By Attorney GRIGSBY:

Q. State your full name.—A. George James.

Q. Where were you born?—A. Ketchikan.

Q. How long have you lived in Ketchikan?—A. Since we start here; all the time.

Q. You have a house here?—A. Just stay with my friends in Ketchikan.

Q. You stay with your friends?—A. Yes.

Q. In Indian Town?—A. Yes.

Q. Are you a Thlinket?—A. Yes; I have been here 32 years now.

Q. You have lived here in town 32 years?—A. Yes; all the time we just go short time and come back again.

Q. You are 33 years old?—A. Thirty-two.

Q. Did you vote last November at the election here in Ketchikan?—A. Yes.

Q. For whom did you vote?—A. Wickersham.

Q. Wickersham?—A. Yes.

Q. Did you vote for anybody else?—A. Yes.

Q. Who else?—A. Lots of people. I hear good man Wickersham; white people tell he is good man, Wickersham. I sign just his name, that is what I mark.

Q. Did you vote for anybody else beside Wickersham?—A. No.

Q. When you came up here to vote, who showed you how to mark your ballot?—A. Lot of people, white people in the street, my friends, that fellow she showed me that man; I never read the paper. I have been to school not one day.

Q. And white men on the street show you how to mark it?—A. Yes; my friends.

Q. What white man?—A. I don't know.

Q. Do you know Mr. Oliver?—A. No.

Q. Mr. Oliver, him [indicating]?—A. I don't know his name; I see fellow on the street.

Q. Do you know Mr. Oliver?—A. No; only another fellow I know.

Q. Who is that?—A. Judge Mahoney.

Q. Judge Mahoney?—A. Who is the marshal is, I know in the street.

Q. You don't know the name of any white man?—A. No; only just fellows I know.

Q. When you came up here to vote, did somebody show you how to mark?—A. Some fellow read in newspaper is good man to help fishermen.

Q. When you came in here to vote, a man gave you a paper?—A. Paper?

Q. Yes.—A. Some friends he ask it where Wickersham about on the papers, another fellow he showed Wickersham there, that is what.

Q. A man showed you on the street?—A. Yes.

Q. Do you know who that man was?—A. No.

Q. Do you know what Wickersham was running for, what office he was running for?—A. No.

Q. Do you know who is President of the United States?—A. No; I never at school; I don't know; lots talk I don't hear, only few talks I know.

Q. You never voted before last fall?—A. No.

Q. Who told you you had a right to vote last year?—A. Lots of people told me Wickersham going to help fishermen, that why I vote.

Q. Who told you you had a right to vote?—A. Just on street, lots of people.

Q. Lots of people on the street?—A. Yes.

Q. You don't know who they were?—A. No.

Q. All the Indians come up and voted last fall?—A. Yes.

Q. Lots of them?—A. Yes.

Q. All for Wickersham?—A. Yes.

Q. Who is your chief?—A. I don't know chief; no; what call chief? I don't believe chief; what is that a chief now; I hear somebody is called chief.

Q. Do you know what a Bear Indian is?—A. No.

Q. Do you know what a Crow is?—A. Yes.

Q. Do you know what a Bear is?—A. No.

Q. Are you a Crow or a Bear?—A. Crow.

Q. Can you marry a Crow?—A. I don't understand.

Q. Can you read?—A. No.

Q. Can you write?—A. No.

By Judge WICKERSHAM:

Q. Were you registered in the last war?—A. Yes.

Q. George, were you registered here in Ketchikan?—A. Yes.

Q. Have you got a registration card?—A. Yes.

Q. Let me see it, please.

Judge WICKERSHAM (to Attorney Grigsby). You don't want this read into the record, do you?

Attorney GRIGSBY. Yes.

Judge WICKERSHAM. All right. [Reads:] "Registration certificate; to whom it may concern, greetings: These presents attest that in accordance with the proclamation of the President of the United States and in compliance with law, George James, of Ketchikan, Alaska, has submitted himself to registration and has by me been duly registered the 22d day of November, 1918, under the supervision of the local board, designated on the back hereof, E. G. Keaney, registrar." On the back of it, "Local board No. 4, city of Ketchikan, Ketchikan, Alaska."

Q. Do you belong to the Alaska Labor Union, George?—A. Yes.

Q. What is your business?—A. That is fisherman.

Q. You are a fisherman?—A. Yes.

Q. What do you do in fishing?—A. Just fishing for the cold storage.

Q. For the cold storage?—A. When got to work up canneries.

Q. Do you run a boat?—A. Yes.

Q. What kind?—A. I haven't got; I sell boat; I am going to get another boat; big one.

Q. In 1918, a year ago, did you own a boat?—A. Fours days ago, now.

Q. You sold it four days ago?—A. Yes.

Q. What kind of a boat?—A. Seine boat.

Q. How big a boat?—A. Thirty-five feet long.

Q. How much is it worth; what was it worth; how much did it cost?—A. We sell that boat.

Q. Yes?—A. Five hundred and fifty dollars. I want to get a new boat, why I sell that boat, 46 feet.

Q. You are going to get a new boat, 46 feet long?—A. Yes.

Q. You have got no chief now?—A. I don't know what is chief; I can't tell.

Q. Do native people have any chief?—A. I don't know what is that chief.

Q. You have heard more talk about chiefs from Mr. Grigsby than from the Indians the last 10 years?—A. I don't know what kind man they got chief.

Q. You live under the laws of the United States?—A. Yes.

Q. No Indian laws here, are there?—A. No.

Q. Is your father living?—A. He is died, about nine years.

Q. He lived here in Ketchikan, did he?—A. Yes.

Q. And your mother?—A. She is here.

Q. Dead, too?—A. No, here.

Q. Where is she living? Where is she living?—A. Indian Town.

Q. Who does she live with?—A. In the Johnson House.

Q. In the Johnson House?—A. Yes.

Q. Have you got any brothers and sisters?—A. Yes.

Q. How many?—A. Two.

Q. Where do they live?—A. Here in Ketchikan.

Q. You say you are 32 years old?—A. Yes.

Q. What is the button you have got on there, George?—A. That is some people—

Q. Union button?—A. Yes; the Union.

Q. You belong to the Alaska Labor Union?—A. Yes.

Q. You say you know Judge Mahoney?—A. I only know one, I know Judge Mahoney, this fellow I forget.

Q. Did he talk about politics to you before November last, before you voted?—A. No.

Q. Do you know Mr. Sharpe?—A. No; which fellow.

By Attorney COSGROVE:

Q. You voted for Wickersham?—A. Yes.

Judge WICKERSHAM. Before going any further I want to introduce into the evidence the certified copy of statement from the assessment rolls of the town of Ketchikan for the year 1918, showing the names of 13 property owners, whose property was assessed, description of the property, valuation, etc., and date of payment. Certified to by the town treasurer of Ketchikan, and ask to have it marked as an exhibit and go into the record of the case. (See Exhibit A.)

GEORGE JAMES.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL]

WILL H. WINSTON,  
Notary Public.

#### DEPOSITION OF WILLIAM T. MAHONEY.

WILLIAM T. MAHONEY called and sworn.

By Attorney GRIGSBY:

Q. State your full name?—A. William T. Mahoney.

Q. What official position do you hold?—A. United States commissioner and deputy clerk of the district court.

Q. Commissioner for what district?—A. Ketchikan.

Q. That is a recording district?—A. No. 8; yes.

Q. How long have you held that position?—A. Since April 1, 1917.

Q. As commissioner of the Ketchikan recording district, is it your duty to divide this district into election precincts?—A. Yes, sir.

Q. That is, outside of the town of Ketchikan?—A. Outside the incorporated towns.



Q. Now, in the incorporated town of Ketchikan, who divides the town if it is divided, who establishes the election precincts?—A. Why, it has always been established.

Q. Who names the judges?—A. The city council and the mayor.

Q. Do they have the power to divide it into one or more election precincts?—A. Yes, sir.

Q. You have nothing to do with it?—A. No, sir.

Q. State the election precincts in your recording district?—A. In the recording district it is Charcoal Point, Beaver Falls, Hyder, Craig, Token, Loring, Hadley, and Kassan.

Q. Sulzer?—A. Sulzer; there are 10.

Q. Do you know the town of Hydaburg?—A. Yes, sir.

Q. In what election precinct is that situated?—A. Sulzer precinct.

Q. Have you been to Hydaburg?—A. Yes, sir; well, I was in Hydaburg while it was being built; I was there before it was a town and I have been there four or five times in the last two years, I guess.

Q. Are you acquainted with the Indians who reside at Hydaburg?—A. Yes, sir; practically all of them.

Q. Are you acquainted with their customs and habits?—A. Yes, sir.

Q. State whether or not they are in a high state of civilization.—A. Well, I wouldn't call them in a high state of civilization; they are in the highest state of civilization among the Indians, the Hydaburg tribe; they live more like white people than any other Indians.

Q. You refer to those living at Hydaburg?—A. Hydaburg and Klawak. Those at Hydaburg are in a higher state of civilization than those at Klawak.

Q. Do you know where the Indians at Hydaburg are in the habit of voting?—A. Yes, sir.

Q. Where?—A. Sulzer.

Q. Do some of them vote at Craig, or is it the Klawak Indians?—A. It is the Klawak Indians who vote at Craig.

Q. Have you ever been in Sulzer on election day?—A. Yes, sir.

Q. What election?—A. 1912, I think.

Q. You weren't there in 1916?—A. No, sir.

Q. Nor last fall?—A. No, sir.

Q. Now, speaking generally, do you know the history of the Indians at Hydaburg, how long they have been in Alaska?—A. Yes, sir.

Q. Can you state whether or not they are natives of Alaska?—A. Most of the Indians of Hydaburg are natives of Alaska.

Q. Have you ever seen a list of those who voted at Sulzer last year?—A. Yes, sir.

Q. Do you know them?—A. I know practically all of them.

Q. Do you know whether or not they are natives of Alaska?—A. I believe all of them are that voted; they are most all young Indians.

Q. Are you familiar with what the rule is or was last year with reference to the registering of Indians?—A. Yes, sir.

Q. Were they compelled to register?—A. I was a registration officer for the first registration period and Mr. Blue was a registration officer—

Q. During the first registration period?—A. And the Indians were not registered.

Q. Do you know what the rule was for the second registration period?—A. No; I do not; I know in the second registration that a great many Indians registered, as did Chinamen, Japanese, and other nationalities, every nationality registered.

Q. Do you know the Indian town called Saxman?—A. Yes, sir.

Q. What election precinct is that in?—A. That is in Beaver Falls.

Q. Is it in the city limits of Ketchikan?—A. No, sir.

Q. Where is the proper place for a resident of Saxman to vote if he is entitled to vote?—A. Beaver Falls.

Q. In your official capacity have you become acquainted with the Indians who reside in the town of Ketchikan, in that part of town known as Indian Town?—A. Yes, sir.

Q. Are you familiar with their habits of living?—A. Yes, sir.

Q. What would you say as to their habits of living as to whether they are civilized or not civilized, whether they live like white men or are not living like white men?—A. It is commonly known that most of the Indians here are Thlinkets and Tsimpseans, and the Thinklets and Tsimpseans are not as highly

civilized as those at Hydaburg; they live like white men one day and like Indians the next.

Q. And some of them are more highly civilized than others?—A. Yes, sir.

Q. You have heard the testimony of the Mather boys here to-day?—A. Yes.

Q. Would you consider them highly civilized?—A. Yes; there are some of them that you wouldn't call highly civilized and some that are more civilized, but are still Indians. They live a good deal like white people and have adopted some of the customs.

Q. Taking them as a whole, would you consider they had adopted the habits of civilized life and severed their tribal relations to the extent they would be entitled to vote?—A. Not to vote intelligently.

Q. To have the right to vote, I mean?—A. No; I would not.

Cross-examination by Judge WICKERSHAM.

Q. Judge Mahoney, the Haida Indians originally came from the Queen Charlotte Islands?—A. Some of them.

Q. All of them—weren't they originally from there?—A. No, sir; a large majority of those at Hydaburg now, I believe, were born there.

Q. I am not asking you that question. I say, originally their place of origin was the Queen Charlotte Islands?—A. I wouldn't say Queen Charlotte Islands. The Haidas are different from the Thlinkets and Tsimpseans. The Haidas always lived on islands.

Q. Isn't it true they came over from Massett to How Kan, Klinkwan, and Sukkwan, and settled there after driving out the Thlinkets who had formerly inhabited those towns?—A. No; I don't know as they did. My understanding of it was that the Indians had a village at Klinkwan; then they moved their village from Klinkwan to How Kan; and then from How Kan to Hydaburg. Klinkwan used to be a post office. There is nobody there now and hasn't been for 10 years, and there has been nobody at How Kan now for five years.

Q. They all moved up to Hydaburg?—A. Yes, sir.

Q. Who lives at Sukkwan now?—A. I don't know; I never was at Sukkwan.

Q. Sukkwan is just across from Hydaburg?—A. Sukkwan and Hydaburg are the same thing.

Q. Sukkwan is just across the strait from Hydaburg?—A. It is always considered as Hydaburg.

Q. You will see what was an old, old Indian village at Sukkwan?—A. Yes.

Q. You have been at Hydaburg?—A. Yes.

Q. And you have seen—A. I might say building. My recollection is, there is only one.

Q. Only one left?—A. Practically all one garden spot.

Q. And the Hydaburg Indians at Hydaburg speak the same language as the Indians over on the Queen Charlotte Islands?—A. I don't know.

Q. You haven't given any careful study to the ethnology of those people?—A. I wouldn't say, except what I have heard and read.

Q. You lived at Sulzer for a long while?—A. Yes.

Q. And you knew them there?—A. Yes.

Q. What were you doing there, Judge?—I was bookkeeper for Mr. Sulzer.

Q. For how long?—A. Almost three years—two and one-half.

Q. And in that way you got acquainted with lots of those people?—A. Yes.

Q. About the only thing you know about them was learned that way; from talking with them?—A. No; I have done business with them for 10 years—7 or 8 years.

Q. When did they first vote?—A. I do not know.

Q. Don't you know they all voted in 1916, and that was one of the points of my controversy in the former contest?—A. I knew you had a controversy, but I didn't know who voted, except they had so many votes.

Q. Didn't you know, Judge, from talk and from the papers that in the contest Mr. Sulzer and I had over the 1916 election one of the principal points of the contest was over the voting of the Hydaburg Indians and the Klawak Indians there and at Craig?—A. Yes.

Q. And you know they did vote in 1916?—A. Just according to the record, that is all.

Q. They voted, then, two years before these people were voting?—A. Yes.

Q. Now, Hydaburg is located on the Haida Indian Reservation isn't it?—A. No; I do not believe it is an Indian reservation. I know at the time Hydaburg was started there was some question as to whether it was a reservation or not, and the Indians wouldn't move to Hydaburg because some of the white men told them they would lose their rights and wouldn't be American citizens.

Q. You don't know the President of the United States made by Executive order a reservation of a certain area of land, square tract, embracing Hydaburg and Sukkwan, known as the Haida Indian Reservation?—A. I didn't know it was an Indian reservation.

Q. You knew it was set apart for the Indians?—A. But there are white men living in there I know that.

Q. What white men were living there?—A. Half a dozen that I knew.

Q. Mr. Hibbs was living there along with his wife?—A. Yes.

Q. Mr. Bromley, who is the minister?—A. Yes, sir.

Q. Mr. Hibbs was a school-teacher there?—A. Yes, sir.

Q. And Mr. Bromley was a minister there?—A. Yes.

Q. Mr. Hibbs was employed by the Government there as teacher, and had charge of the school over on the Hydaburg Indian Reservation?—A. Yes.

Q. And Mr. Bromley was there for the Presbyterian Church as minister on the Indian reservation?—A. He was there as minister, but in regard to the point of whether or not he was on a reservation, I don't know.

Q. You know, don't you, Judge Mahoney, that the Haida Indians had a very extensive semicivilization before the white people came to the country, on the Queen Charlotte Islands?—A. I don't know. I have always considered the Hydaburg or Haida Indians much more civilized, a much cleaner looking and better-built people than other natives. They are big, strong, broad-shouldered natives, speak better English, and better to do business with than other natives.

Q. They were all carvers and boat builders?—A. I don't know about their being boat builders.

Q. Haven't you noticed their totem poles in their Indian towns?—A. I never saw them at Hydaburg.

Q. No; but at Sukkwan, Klinkwan, and How Kan; you have seen them there, haven't you?—A. No; I never saw them; I believe there was one in Sukkwan.

Q. Weren't there many at How Kan?—A. No; not many; three or four, probably.

Q. And what about Klinkwan?—A. I never saw any.

Q. The Haida Indian language is altogether different from the Klinket, is it not?—A. Yes.

Q. The Haida Indians not only were boat builders but they were fishermen in that they were probably more adept in building canoes and going to sea than the Thlinkets who lived near the shore?—A. No. All the Indians in southeastern Alaska are considerable fishermen. I don't know which is considered the best.

Q. Did you ever read up carefully about the ethnology of the Haida Indians?—A. I never read carefully about the Indians; there are several different theories on it; I have talked to a great many old-timers who have been here 30 and 40 years.

Q. You don't know that the Government has made an extensive study of the various Indian races and gathered an immense amount of material in respect to them?—A. Yes, sir.

Q. Now, you say that in your commissioner's precinct there are 10—in your commissioner's district there are 10 precincts—and you have given the names?—A. Yes, sir.

Q. And in each precinct you appoint the election officers?—A. Yes.

Q. And you did for the election of November 5, 1918?—A. Yes, sir.

Q. You are the United States commissioner in this commissioner's district?—A. Yes, sir.

Q. That office makes you ex officio probate judge in this district?—A. Yes.

Q. And justice of the peace?—A. Yes, sir.

Q. And coroner?—A. Yes, sir.

Q. And recorder?—A. Yes, sir.

Q. And you are also assistant clerk of the district court?—A. Deputy clerk.

Q. Deputy clerk of the district court. Now, all you know about where these Indians over to Hydaburg were born is what you have heard; you weren't present at the time?—A. Yes; some of the younger ones.

Q. None of those that voted?—A. No.

Q. They came from either Klinkman or Sukkwan or How Kan to Hydaburg?—A. My understanding is they came from Klinkwan to How Kan and from How Kan to Hydaburg.

Q. But where they were born, you don't know?—A. I am satisfied.

Q. You are satisfied, Judge, but you don't know anything about it?—A. I don't know how one would know any more; I can't remember.

Q. Somebody just told you about it?—A. I was told, and I read some of their birth certificates.

Q. Where did you see them?—A. I don't know.

Q. When did you see them?—A. I don't know whether it was after I started here; I don't remember.

Q. Now, with respect to these Indians, they live in their own homes, don't they, Judge, most of them?—A. No; not most of them.

Q. Most of those that have been subpoenaed here as witnesses have?—A. You haven't one-half of them.

Q. I didn't get any; Mr. Grigsby got them.—A. I should judge 20 or 25 per cent do own their own property.

Q. Are you sure that that 25 per cent do own property?—A. Yes.

Q. And they own their homes here and live very much after the manner of white men?—A. Yes; after the manner of white men.

Q. And a great many of these they had on the witness stand have been to school and read and write?—A. I don't know.

Q. You don't know that? You were a very ardent supporter of Mr. Sulzer in 1916 and 1918 both, weren't you, Judge?—A. Yes, sir.

Q. You had worked for him over there and was a friend of his; thought he was a good man and supported him earnestly?—A. Yes, sir.

Q. And you had been very active in his behalf at the election?—A. I wouldn't say active.

Q. And wouldn't you really call it active, Judge?—A. No; I would not.

Q. Well, how swiftly do you think a man ought to work for another to make it active, in comparison with the time you worked for Sulzer? I am not criticizing you, Judge, you understand?—A. That all depends how bad I wanted a man in.

Q. You wanted Mr. Sulzer elected pretty badly?—A. No; it wasn't pretty bad. I would like to see him in; believed he was elected, and all that. I don't think I lost any sleep over it.

By Attorney GRIGSBY:

• Q. Is the island of Gravina in Ketchikan?—A. Gravina?

Q. The place Mr. Schafer said he lived?—A. No.

Q. What election precinct would that be in?—A. Charcoal Point.

WM. T. MAHONEY.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

DEPOSITION OF GEORGE B. GRIGSBY.

Attorney GEORGE B. GRIGSBY sworn.

Attorney GRIGSBY. My name is George B. Grigsby. I am the present Delegate to Congress from Alaska. I had a conversation with George Booth, one of the Indians who testified here this morning, in my room in the Stedman Hotel, last Monday, or about that time, in which he informed me that his home was at Metlakatla and always had been for a good many years past, and was at Metlakatla at the time of the election last November.

Three or four days ago I had a conversation with four natives from Hydaburg, in this election district, Albert Natkin, Louie Tom, James Edenso, and Fred Mather; three out of the four, I don't remember which, showed me their registration cards and stated that—

Judge WICKERSHAM. I object to what they stated to you; it is hearsay evidence and not the best evidence, and Mr. Grigsby has offered it to serve a purpose. He is a lawyer, and knows better.

Attorney GRIGSBY (continuing). To me that all the Indians at Hydaburg within the proper age limits likewise registered for the draft. They also informed me that all native boys from Hydaburg who voted at the last election at Sulzer were natives of Alaska.

Judge WICKERSHAM. I want to renew my objection to this hearsay evidence, and I move to strike it out at the proper time.

Attorney GRIGSBY (continuing). I didn't subpoena them because they were about to leave Ketchikan, and I didn't care to inconvenience them.

• Now, with reference to some of the testimony taken on the part of the contestant at Valdez: There was testimony offered on behalf of Judge Wickersham, the contestant, to the effect that the Signal Corps boys at Valdez,

in the primary election a year ago last April, called for Democratic ballots, and that is evidently offered for the purpose of showing that those boys were Democrats and voted for the Democratic candidate in the election in November.

I wish to state that at the primary election of April 30, 1918, there was no contest for the Republican nomination; there was but one candidate for the Republican nomination, and that was Judge Wickersham, and a very small vote was polled for him on account of the fact of there being but one candidate, and it is a well-known fact a very large percentage of the people who voted at that primary voted at the Democratic primary, regardless of the fact of whether they were Republicans or Democrats; and the fact that a man called for a Democratic ballot in the primary is no indication whatever that he voted for Sulzer in the election in November; the fact being that the Wickersham supporters, all over the Territory, were urged to go into the Democratic primaries and vote for Maloney. It was so advised on the stump by Mrs. Hatcher and openly advocated, and in Valdez there was a very small vote cast for the Republican candidate in the primary.

Mr. Wickersham alleges in paragraph 5 of the document known as House Document No. 74 of the Sixty-sixth Congress, first session, which is made a part of his specific ground of contest in this proceeding, as follows: "That the canvassing board of the Territory of Alaska, provided by the laws of Congress for the canvass and compilation of the returns of said election and authorized to issue the certificate of election to the person receiving the greatest number of legal votes thereat, was composed of the governor, the secretary of the Territory, and the collector of customs; that each and all of said officers were at all such times of the opposite political party to this contestant and were his partisan opponents." That statement is not correct; the canvassing board referred to consisted of the surveyor general, Mr. Charles E. Davidson; the governor, Gov. Riggs; and the acting customs collector, Charles Garfield. Mr. Garfield is and always has been a Republican. Mr. Davidson was not a partisan opponent of Mr. Wickersham, but one of his supporters during the last campaign and at the time of canvassing the returns. The allegations go on: "That seeking to embarrass and delay this contestant in securing a prompt and fair settlement of his rights in the matter of said office and in ascertaining the result of said election so held in said Territory on November 5, 1918, the said canvassing board purposely delayed the collection of the official returns and the canvass thereof from month to month until April 16, 1919."

That statement is absolutely untrue, it is a well-known fact that the returns of the last election, of November 5, 1918, were not received by the canvassing board on time, not until about the 15th of April and it was impossible for the canvassing board to complete the canvass until all the returns were in. On account of the epidemic of Spanish influenza there was a quarantine of the mail at Nome, Alaska, commencing about the 1st of November and continuing until about the 15th of February; from the time of the election until February 15, no mail was allowed to leave there so that the returns could not have been received, and if the canvassing board had completed the canvass without the receipt of the returns from Nome, Mr. Wickersham would have lost about 200 votes. The canvassing board received the returns from Nome on or about the 15th day of April. They, by some mistake, were carried here to Ketchikan or Seattle and returned, which made their actual receipt later than otherwise would have been. That was a well-known fact to anybody interested in the election at that time and probably well-known to Judge Wickersham, as he was very much interested, and it was for his benefit that the delay was made and not otherwise. I myself know this of my own knowledge, every time a mail came to Juneau for two or three weeks, prior to the receipt of these returns, they made inquiry and I know they were expected for two or three weeks before they arrived. The canvassing board was very anxious to complete the canvass but which they could not do until the returns were all in without disfranchising a very large vote, which I said before was a Wickersham vote.

In paragraph 23, on page 21, of Document No. 74, is the allegation: "That at the election held in Alaska on November 5, 1918, a large number of ballots were cast for this contestant which were not counted for him by the election officers in the various precincts in the Territory because of some alleged defect therein; that said ballots accompany the returns from the precincts in which they were cast and are now included in the returns in the possession of the governor of Alaska, at Juneau, Alaska; that the judges of election in every precinct



in Alaska were appointed by the various commissioners and were almost generally hostile to this contestant by reason of their political opposition and their adherence to the Democratic Party organization."

Now, that allegation is not a fact, the judges of election in the precincts outside the incorporated towns are appointed by the United States commissioners and I believe that at least one of the judges according to law must be of a different political party from the other two, and that rule was followed universally wherever it was possible to follow it. In the incorporated towns the United States commissioners have nothing to do whatever with the appointment of the election board; it is selected by the city council; and in the election of November 5, 1918, practically half the votes in Alaska were cast in the incorporated towns.

The allegations go on to say: "That all doubtful ballots and all doubtful offers to vote were decided against this contestant or in favor of his opponent, the said Sulzer." That is not true; a good many doubtful challenges and doubtful offers to vote were decided against Mr. Sulzer by the election officers, and in the precincts which were outside the incorporated towns the records of the canvassing board show that there were practically as many cases where the decisions of the election officers were against Mr. Sulzer as where their decisions were against Mr. Wickersham.

The allegation goes on to say: "That when the returns were received for compilation and issuance of a certificate to the successful candidate by the canvassing board in the city of Juneau, Alaska, said canvassing board began an inspection of such doubtful or rejected ballots and thereupon found that many mistakes or discriminations had been made against the interests of this contestant, and the governor of Alaska, fearing that a full investigation of said ballots would disclose that enough mistakes and discriminations had been made to elect this contestant, refused further to examine the said ballots and declared his intention to stand by the face of the returns, a sufficient portion of which had been received by that time to induce him to believe that the face of the returns would enable him to issue the certificate to the contestee, Sulzer; that this contestant alleges that a full and fair examination and compilation of the said returns and the said rejected ballots therewith and a fair consideration of the errors and mistakes made by the various election officers will show that this contestant was deprived of more than 50 votes without authority of law and would thereby be elected as Delegate and the said Sulzer defeated."

Now, I wish to state that the canvassing board had commenced their canvass three or four days before I arrived in Juneau from Washington, where I had been on official business, and that in each case where there was any doubt as to the action of the election officers in rejecting ballots a notation was made that the matter would be referred to the attorney general, and when I arrived in Juneau each of these cases were referred to me in writing. There were several instances in which the voter had attempted to indicate his choice in some other manner than by marking a cross in the square opposite the name of the candidate, and almost universally where the voter failed to comply strictly with the statute, as to marking the ballot, the judges of election rejected the ballot. When I was up in Juneau last the returns had been forwarded to Washington in accordance with House resolution No. 105, and I had no opportunity to examine them, but I recollect that there were about 15 ballots which were marked irregularly and which indicated that the voter intended to vote for Mr. Sulzer; they had, however, been rejected by the election judges. There were, I believe, 16 irregularly marked ballots, but so marked as to indicate that the voter probably intended to vote for Mr. Wickersham, which had likewise been rejected by the election judges, and before the canvass was completed, before more than a few of these irregularly marked ballots had been called to the attention of the canvassing board, I was requested to give an opinion, and I advised the canvassing board, in accordance with what I believed to be the law and what I believe to be the law now, that they could not correct the judgment of the election officers and count votes which the election officers had rejected. The following of this rule did not change the result as between Wickersham and Sulzer to the extent of more than one vote.

Now, I wish to offer in evidence, Judge, the records of the canvassing board, which have been forwarded to Washington, to the Clerk of the House.

Judge WICKERSHAM. I don't object, but join with you in that request.

Attorney GRIGSBY. Including the ballots and returns and everything.

Judge WICKERSHAM. I join in that request.

Attorney GRIGSBY. With reference to the special election, the allegations are made somewhere in the contestant's petition that the Democratic majority in

both houses of the legislature, together with the attorney general, myself, prepared the election law under which the special election was conducted, I wish to state that I prepared the election law myself at the request of the governor, without assistance from anyone; that there was not a Democratic majority in both houses; there was a Democratic majority in the house; and I think there were only four regularly elected Republicans in the house, but there were other members who were Wickersham men. However, the house was Democratic; had a Democratic majority. The senate, however, did not have a Democratic majority; that is to say, that four members of the senate were either Republicans or Wickersham supporters. This election law which Mr. Wickersham alleges was prepared by the Democratic majority of the legislature received the unanimous vote of both houses when it was voted on for adoption, and was enacted into law exactly as I had prepared it, without any change. The Australian ballot law was not made applicable to this special election for the reason that under the provisions of the Australian ballot election law the election could not have been held for several months on account of the provisions in the law requiring the filing of the candidates a certain number of months before the election and requiring the distribution of the printed ballots a certain number of days before the election, so that if the Australian law had been made applicable to the special election the election could not have been held for at least three or four months.

The provision in the law permitting the canvassing board to receive telegraphic returns was likewise adopted in order to expedite the election. If the election had been conducted under the general election law, it would have been impossible to have had the election before about the present time. There was no intention on the part of the legislature or anyone else in any way to prejudice any candidate by holding the election under the old congressional act, the way it had always been held, prior to the passage of the Australian ballot law in 1915.

The contestant also alleges that on account of the short notice of the election, it being called on 30 days' notice, that a very large percentage of the voters in Alaska were disfranchised. That is not correct. The notice was sufficient, and reached all, or nearly all, the election precincts in time so that no voter need be disfranchised. The vote was small because the campaign was short and very little interest was taken in the election on account of there being no Republican candidate.

By Judge WICKERSHAM (cross-examination of Attorney Grigsby):

Q. At the time that act was passed by the Territorial Legislature there were how many members of the Senate?—A. Eight.

Q. And how many in the house?—A. Sixteen.

Q. And you say in the house there were four Republicans?—A. Four regularly elected Republicans, I believe; might have been more.

Q. Now, in the senate there were eight members?—A. Yes.

Q. Mr. Britt was a member?—A. Yes.

Q. He was a Democrat?—A. Yes.

Q. Mr. Roman was a member?—A. Yes.

Q. And he was a Democrat?—A. Yes.

Q. Mr. Price, he was a member?—A. Yes.

Q. And he was a Democrat?—A. Yes.

Q. Mr. Hess was a member?—A. Yes.

Q. And he was a Democrat?—A. Yes.

Q. Mr. Frauley was a member?—A. Yes.

Q. And he was a Democrat?—A. No, sir.

Q. Well, hasn't he always claimed to be a Democrat?—A. I don't think so, Judge.

Q. You know he has claimed it at all times?—A. No.

Q. Wasn't he elected in the Democratic primaries?—A. Yes.

Q. And he claims to be a Democrat?—A. I don't know that; I knew he is a Wickersham man.

Q. You know he is unfriendly to you, politically I mean; I don't mean personally?—A. I imagine he is.

Q. But otherwise he claims to be a Democrat?—A. I know he ran in the primaries.

Q. As a Democrat?—A. Yes; but I always considered Mr. Frauley a Wickersham supporter.

Q. And he was elected president of the senate by the Democrats?—A. By the Democrats and Republicans.

Q. But all the Democrats voted for him?—A. I don't know; he is a Wickersham supporter.

Q. So that there were five Democrats in the senate and three Republicans? You stated there were four Republicans in the senate?—A. I believe I stated four were Republicans or Wickersham supporters.

Q. And you think Frauley was one of my supporters?—A. Yes; I do.

Q. In what way did he ever support me?—A. For Delegate to Congress.

Q. You don't think he supported the Democratic ticket?—A. I don't.

Q. You don't think he supported Mr. Sulzer?—A. It isn't so believed by those who did support Mr. Sulzer.

Q. But otherwise he seems to be a Democrat?—A. He never seemed that way to me; I don't consider him such.

Q. And you drew the bill for the purpose of calling the election held June, 1919, for the special election in this Territory?—A. Yes, sir.

Q. Wasn't it submitted to any others than you before it was introduced in the legislature?—A. Went in to the committee.

Q. Wasn't it submitted to anyone else before it went to the committee?—A. No, sir.

Q. Wasn't it submitted to one person outside?—A. Yes; it was submitted to one person.

Q. Who?—A. Jack Hellenthal.

Q. Wasn't it submitted to Donohue?—A. No.

Q. Wasn't it submitted to the governor?—A. No, sir.

Q. Wasn't Donohue handed a copy?—A. No, sir.

Q. Wasn't it approved by the governor before being introduced?—A. No, sir.

Q. Who introduced it?—A. I couldn't say.

Q. Well, that bill called for an immediate election, did it not?—A. The act took effect after it was passed by the Territorial legislature.

Q. It permitted the Governor to call for an election immediately, did it not?—A. Immediately upon the passage of the bill.

Q. And he called it immediately?—A. No; he did not.

Q. When did he call it?—A. I think the bill was approved on the 28th.

Q. 28th of May—28th of April?—A. Yes; and I am not sure whether the call was issued the next day or whether it was issued on the 3d of May.

Q. It was issued just as quickly as you could get the papers ready, wasn't it?—A. My recollection isn't clear about that. I know we published a notice in the paper, the governor did, prior to the calling of the election, notifying the public ahead.

Q. It was published in the Democratic paper, called the Empire, at Juneau?—A. No; all papers, so that the public did have the information for a considerable length of time?

Q. For how long, 30 days?—A. The actual notice was something over 40 days.

Q. Let me see if I understand the situation: The act was passed by the legislature and approved by the governor April 28?—A. I believe that is correct.

Q. And the election was held June 3?—A. Yes.

Q. That was a little over 30 days, isn't that right?—A. Yes.

Q. About 35 days from the date of the passage of the act?—A. But prior to the passage of the act it was announced that it would be called.

Q. You had it all fixed beforehand, before the bill was passed?—A. There was authority under the law to call the election without the passage of the bill, in case it wasn't passed, the election would have been called anyway, so that the governor announced his intention to call the election some time before the bill was passed.

Q. The United States Statutes provide though that when such an election is held, or there is a call for a special election, it should be governed by the laws passed by Congress governing special elections?—A. It was so conducted.

Q. I understand you provided in that bill that telegraphic returns might be made to the canvassing board?—A. From the clerks of the court.

Q. Was that done?—A. Yes.

Q. To what extent?—A. I wasn't here on election day or for several days after election, and left here, that is Juneau, very soon after the election, but I believe the clerks of the court from most divisions wired telegraphic returns as fast as they got them.

Q. That wasn't provided for by the act of Congress?—A. No; that doesn't pertain to the conduct of the election.

Q. Now, why did you do that, provide for telegraphic returns?—A. So as to determine the result sooner; to get a person elected and in office as soon as possible.

Q. And that is the reason you struck out the Australian ballot law?—A. Yes, sir; so as to get quick action on the situation. A special session was to be called in Congress when the law was passed and it was realized that there would be no delegate representing Alaska at the special session. If the election had been conducted under the same provisions, that is the prerequisite and the method of making the returns, as the general election, we could have had nobody down there at Washington during the special session.

Q. Now, I understand that the governor, immediately after the passage of that act, issued telegraphic notice to the clerks of the court, throughout the Territory and sent them telegraphic instructions generally about the provisions of the act?—A. I suppose he did, I don't know positively about that.

Q. You wouldn't say positively?—A. No, I think he wired the writ. I saw the writ.

Q. Did you prepare the writ?—A. Yes.

Q. And that was wired to the clerks of the court in the four divisions of the Territory of Alaska, instructing them to proceed under the special election law?—A. I believe it was, all except the first division.

Q. And the election was to be called upon 30 days' notice?—A. So I understand.

Q. Now, what do you think?—A. Thirty days or more.

Q. You say it was called on the 29th?—A. The 28th the bill was passed, of April.

Q. And the election was called for June 3, when?—A. The writ was dated the 28th.

Q. The day the bill was passed?—A. The bill was passed I think prior to that.

Q. No, the bill was passed on the 28th?—A. It was approved on the 28th, according to this copy you have introduced and the writ was dated the 28th.

Q. Would you object to letting me see that, I haven't a copy of it here, I thought I had?—A. This purports to be a copy of the bill.

Q. It was printed and I put it into the record exactly as it was printed and distributed. This is an exact copy of what the governor issued?—A. This is a notice dated Juneau, Alaska, April 28, 1919, and begins: "I have to-day issued the following writ of election to fill vacancy in office of Delegate from Alaska" and then follows the writ and signed by the governor. I prepared the writ and this part of it here [indicating] I didn't.

Q. It is a telegram?—A. It isn't introduced as a telegram. This purports to be a copy of the writ as you have stated in your notice, but I don't think the first sentence is a part of the writ.

Q. I do not, it is just information from the governor with regard to what follows.

Q. Now was it possible, on account of the extreme distances in this Territory and the fact that a great many of the commissioners, who had to issue the notices in their precincts, were far away from the clerks of the court, for them to give notice to those commissioners so that they could give 30 days' notice?—A. No 30 days' notice was required by the commissioners.

Q. No notice at all required by the bill?—A. The bill provides: "The United States commissioner in each recording district shall, upon receipt of said notice from the clerk of the court, at once proceed to give notice of the election by posting written or printed notices thereof specifying the time, place, and purpose of the election."

Q. And it was necessary to give notice?—A. No.

Q. Don't you think that calls for notice?—A. It wasn't necessary to give 30 days' notice.

Q. No, and 30 days' notice was not given?—A. They gave notice as soon as they could get the notices all out from the legislature and the governor.

Q. I know but how much notice? In half of the election districts probably there wasn't 30 days' notice given.—A. It couldn't have been.

Q. I was in the office of the clerk of the court at Valdez some days after the 3d day of May and they were just then preparing the notices to send to some of the commissioners. They had not sent them out when I came?—A. That might have been but they might have telephoned the notices.

Q. But in a great many precincts they didn't have telephone or telegraph lines?—A. Where they didn't have any telegraph lines and telephone lines the probability is there could not be 30 days' notice given.

Q. As a matter of fact, isn't it true that 30 days' notice was not given in many of my precincts?—A. More than 30 days' notice was given for all of Alaska.

Q. In all the various precincts?—A. Probably not received in all the various precincts within 30 days prior to the election; that is very likely.

Q. Now, after June 3, when did you get your certificate?—A. I got my certificate about the 26th.

Q. It was dated what?—A. The 14th.

Q. It was issued by the canvassing board?—A. The 14th day.

Q. And the election was held June 3?—A. Yes.

Q. Do you know how many returns from the various precincts in the Territory had been actually received on the 14th day of June, when your certificate was issued?—A. How many precincts or votes?

Q. How many precinct returns?—A. I do not.

Q. There were considerably less than one-half of the total number of precincts in the Territory that were not in?—A. I don't know that; I never looked that up, Judge. I know this, the law provided that they could issue the certificates when sufficient returns had been received, that the missing returns could not alter the result.

Q. How could that be ascertained until all the returns were in, Mr. Grigsby.

A. By comparing the number of votes in the precincts missing with those received, and when I was notified that the certificate was issued, I was notified that I had a majority of 980 votes.

Q. Over Mr. Jones?—A. And that the total missing vote was less than that.

Q. How could you tell about the missing vote when the returns had not been received?—A. By comparing the number of votes cast at the preceding elections, which we knew, and which we knew couldn't be as large this year, with my majority.

Q. Isn't that what was done?—A. I wasn't there.

Q. Haven't you been informed?—A. Never have inquired about that.

Q. Isn't this true that at the time, the day your certificate was issued, June 14, but 33 precincts had actually sent returns in to the canvassing board out of the total in Alaska?—A. By telegraph or otherwise?

Q. Actual returns themselves?—A. I don't know.

Q. Thirty-three had been received by the canvassing board?—A. You mean actual returns from the election districts?

Q. Yes?—A. I don't know.

Q. And they had received telegraphic returns from something like 50 more?—A. I never inquired.

Q. And also one-half the total precincts had not made any report either by actual returns being received or by telegraph?—A. I don't know; but I know this, at the time I received my certificate, if all the votes from the missing precincts, which had not been heard from, neither by telegraph nor otherwise, had been counted against me I still would have been elected.

Q. How do you know that?—A. From the telegraphic accounts.

Q. Who said you were elected?—A. Gov. Riggs.

Q. How could he know?—A. From the returns.

Q. The returns weren't all in?—A. I didn't matter that some of the outlying precincts hadn't been heard from; he knew how many could have been cast in the missing precincts. There could not have been more votes cast in them than two years before.

Q. How did he know that?—A. That was a matter of common sense.

Q. Just guessed at it—about the size of it?—A. No, sir; and the results probably bear him out.

Q. What has been the result?—A. The vote has been canvassed.

Q. The returns haven't all yet come in?—A. I believe they are all in. They weren't all in when Mr. Davidson died.

Q. When did he die?—A. I don't remember the date; sometime in July; and Mr. Sommers had not qualified when I left Juneau, and as the canvassing board consists of the three named officials, they could not continue in the matter of canvassing the returns which were actually received—the returns themselves—until Mr. Sommers qualified.

Q. Aren't there any precincts in the Territory—that election of your in 1918, on November 5—that haven't made any returns at all?—A. I don't know.



Q. You don't know whether those in the north have all made their returns yet?—A. I haven't the slightest idea. In the second division, I believe, there is only one missing, and they didn't hold an election there.

Q. Why?—A. I don't know.

Q. Didn't get any notice?—A. I don't know.

Q. Isn't it true that in the fourth division some of the precincts didn't get notice and didn't hold any election?—A. I don't know; I took interest in the second division because the returns would increase my majority.

Q. There were just two candidates that election, and Mr. Jones, of Ketchikan, was the other candidate? You say you had a conversation with one of these witnesses who was on the stand here—George Booth—in your office, in your room in the Stedman Hotel, on Monday?—A. I think it was Monday.

Q. And that at that time he told you he had lived in Metlakatka for many years, and was there on election day?—A. His residence was there on election day.

Q. You heard his testimony here?—A. Yes.

Q. Now, all you know about these Indians at Hydaburg registering is what some of the boys told you about?—A. They showed their cards.

Q. Whose cards?—A. Those I talked with.

Q. But you didn't call them as witnesses?—A. No.

Q. They were here in Ketchikan?—A. I didn't think it was important. I know it to be a fact that they all registered; that is general information; so were Japs, and Chinese, and other aliens required to register.

Q. Now, in the primary election of April 30, 1918 you think the fact that a person called for and voted a Democratic ticket in the primary doesn't prove that he is a Democrat?—A. I certainly do.

Q. Have you got in mind anybody who called for and voted a Democratic ticket in the primary who didn't vote the Democratic ticket later?—A. Just while you were putting the question I thought of one person.

Q. Who is that?—A. Emery Valentine.

Q. You think he voted Democratic at that time?—A. In that primary.

Q. Hadn't he been a Democrat and in sympathy with the Democratic party for many years?—A. Not that I ever heard of.

Q. Do you know who he voted for at the subsequent election?—A. Yes.

Q. You are sure about that?—A. I didn't see him vote.

Q. And you don't know who he voted for?—A. Yes.

Q. How do you know it?—A. It is hard to define the way I know that, psychologically I guess; he voted for Wickersham.

Q. Is that the only person you know of who did that?—A. I have heard a good many person's names mentioned who did go into the Democratic primary and voted Democratic in the primary and who were Republicans.

Q. You don't know he did?—A. It is common talk in Juneau that he did.

Judge WICKERSHAM. I move to strike from the record this witness' evidence as to what he has testified in respect to Emery Valentine.

Attorney GRIGSBY. Wickersham men in Juneau and Ketchikan were urged by your campaigners to do that.

Q. But you can't name any but Emery Valentine whom you think did do that?—A. Not right now, if I had a list I could.

Q. You say I received but a small vote in the primary at Valdez?—A. I believe so.

Q. Didn't I receive but a small vote on election day there, too?—A. I believe you got more at the election than in the primaries.

Q. Have you examined the records?—A. No, sir.

Q. Isn't it a fact that—A. You are not on the witness stand, I am going to put you there after a while.

Q. You say it is not true that the canvassing board in the 1918 election, or after that election was composed of Democrats?—A. Not true.

Q. Riggs was a Democrat wasn't he, the governor?—A. Yes.

Q. Appointed by the President of the United States, Woodrow Wilson, and confirmed by the Democratic Senate?—A. He is a Democrat.

Q. And the Secretary of the Territory, Mr. Davidson, was a Democrat?—A. Had been.

Q. Was appointed by Woodrow Wilson and confirmed by a Democratic Senate?—A. Confirmed by a Senate composed of Democrats and Republicans.

Q. At that time a majority of them were Democrats, weren't they? A. I said he was not a partisan opponent of yours.

Q. And you state Mr. Garfield is not a Democrat?—A. He is a well-known Republican.

Q. But holds a Democratic office and has held a Democratic office for years?—A. I didn't know it was a Democratic office.

Q. Don't you think the office of collector of customs has been held by a Democrat since Mr. Wilson was President?—A. He was in there a long time before Mr. Wilson was President.

Q. And was retained by the Democratic Party, and that he has always been one of my political opponents?—A. Never knew that.

Q. Don't you know that Charles Garfield has been one of the strongest opponents I have had in Juneau?—A. Never heard that he has been your opponent nor anything like that, and if he was and it was so notorious as you are trying to make it appear, I would have heard of it.

Q. It was notorious and I heard of it?—A. You are seeing things.

Q. Now, you say the last returns were received by the canvassing board April 15, 1919?—A. Not earlier than the 14th.

Q. When did Mr. Sulzer die?—A. The 15th.

Q. When did the certificate issue to Mr. Sulzer?—A. The 16th.

Q. Now, the election was held November 15, 1918, and the certificate was issued to Mr. Sulzer April 16, 1919?—A. Yes, sir.

Q. That is 5 months and 11 days after the election?—A. Yes, sir.

Q. Now, when you ran the election was on June 3 and the certificate was issued to you on June 14?—A. Yes.

Q. That was 11 days?—A. I wrote that law under which I was elected judge; I didn't write the other one.

Q. Made a difference, didn't it?—A. Some months.

Q. Why was there such a haste about the matter?—A. Because there was a vacancy in Congress in the office of Delegate from Alaska, and it was anticipated there would soon be called a special session of Congress.

Q. None had been called?—A. There was none; it was to be called.

Q. Who knew that?—A. General report; I knew it.

Q. Where did you get your information?—A. Newspapers.

Q. Now, you say it is not true that the election officers in the outside precincts of the Territory were hostile to me?—A. Did I say that?

Q. I so understood.—A. I said in the precincts outside the incorporated towns the United States commissioners appointed the election officers, one of which must have been of the opposite political party, wherever possible to do so, and I suppose that the Democratic judges were hostile to you politically, not in a malicious sense.

Q. But isn't it true that they played this sort of a game on me; they appointed two Democrats hostile to me and then appointed Republicans like Mr. Garfield, who was opposed to me?—A. I don't know that that was true. I don't think you got any the worst of it in any precinct by any act of any election judge. Of course they made some mistakes on both sides, but invariably were very strict about the ballots, in marking of them; they went strictly according to the law.

Q. Now, when the canvassing board met after the 1918 election and began going over the returns they did find some ballots that had been thrown out by the election officers?—A. Yes.

Q. And the canvassing board, for a time, began to consider them as part of the final result and counted them in anyway?—A. Yes; with the understanding that it wasn't final.

Q. And when you got back you advised them not to do that?—A. When they asked my opinion.

Q. Is your opinion public in your report?—A. Yes, sir.

Q. So they then took the face of the returns and declared the result on the face of the returns?—A. Yes; except to correct errors in computation or addition.

Q. That the ballots there were with mistakes of some kind are not yet counted?—A. If the election officers rejected them, they are not yet counted.

Q. But they are with the papers at Washington?—A. I suppose they are; undoubtedly.

Q. Now, I was not present at the time when the canvass was being made?—A. No, sir.

Q. But Mr. Marshall, Judge Marshall, and Mr. Rustgard were there representing me?—A. All the time.

Q. And if I made a statement in my notice of contest about any matter I probably made it from information received from them.—A. That is something for you to say.

Q. I wasn't there, certainly. Then, as a matter of fact, Mr. Grigsby, the canvassing board has not yet made a final compilation of all the official returns from all the various precincts in the Territory of Alaska for the special election held June 3, 1919, has it?—A. They completed the official canvass on the 14th of June, on which they issued my certificate; that was a canvass of the returns received by telegraph.

Q. But that was made or that was a canvass of the returns received by telegraph, but the actual returns, not by the telegraphic returns?—A. And they found that there could not be enough votes from the missing precincts to change the result.

Q. So they just gave you the certificate?—A. Yes; according to the law.

Q. Now, I asked you a question a moment ago which I wish you would answer. I asked you if the canvassing board of the Territory of Alaska, consisting of the governor, the secretary of the Territory, and the collector of customs had yet, at this time, October 11, 1919, officially received all of the official returns of all the established election precincts in the Territory of Alaska and had finally made a compilation and canvass of them and declared the result? You can answer that yes or no?—A. No; I can't answer that yes or no; they haven't made any other canvass yet than the one they made in June. I understand they expect to confirm that by canvassing the returns themselves.

Q. You understand they expect yet, at sometime in the future, to finally canvass and compile the official returns of the election of June 3, 1919?—A. No; I didn't say that. I understand they expect to confirm the final canvass that was made last June.

Q. How are they going to do that?—A. By recanvassing the returns actually received.

Q. All the returns?—A. Yes.

Q. And the returns they received on June 14, 1919?—A. By telegraph.

Q. You know as a matter of fact not all of the returns were received by telegraph on that day?—A. I wasn't there, Judge; I should imagine they probably were not all received.

At the evening session, October 11, 1919, which began at about 7.45 p. m., Attorney George B. Grigsby again takes the stand.

Attorney GRIGSBY. I overlooked one statement I want to make. I have been sworn with reference to the conflict of laws as to the residence required of voters. I will state that the Legislature of Alaska in 1915 passed a law prescribing that any citizen of the United States, over the age of 21, who had been a resident of Alaska for a year and the judicial division in which he offered to vote for 30 days, was entitled to vote at all elections. The election of 1916 was conducted under that law in all divisions and the question of illegal votes, on account of voters not residing in the precinct for 30 days, was never raised that I know of, nor in the contest which followed that election. There was a general understanding that a voter was entitled to vote in any precinct in his division, provided he had been in the division 30 days. Now, for instance, I was in Nome on election day in 1916, and Dan Sutherland, who lived in the fourth division, got down to Marshall just within the 30-day period, and as he was in the second division 30 days he voted at Nome. At that time there was a big storm on at Nome and the people from the outside precincts, Candle, Council, Deering, Imuruk, and all over the division, who were in the habit of coming down to Nome in the fall of the year, got stuck there election day and voted at Nome, which resulted in a gain for Mr. Wickersham probably of 100 votes, but on account of the general acquiescence in the law, that point was never raised in the contest. In this last election, 1918, in a great many election precincts it was agreed between the party managers that the Territorial law should be followed. There was very little challenging after that on that ground.

In Cordova it is now claimed that the town of Cordova went Wickersham for the reason that a great many Wickershamites from the outside precincts of Cordova were permitted to vote in Cordova. It was agreed there, I believe, by the party managers that no challenges would be interposed on that ground, and there was a general sentiment throughout the Territory that the Territorial law was right; that a man should be permitted to vote anywhere in his division that he happens to be on election day, especially since at that time of the year, the close of the mining season, is when men are more or less in transit.

By Judge WICKERSHAM :

Q. But you have given an opinion to the Governor of the Territory of Alaska that the law was invalid and void because it was in conflict with the organic act?—A. That was since the election.

Q. You think it is correct?—A. That was certainly my opinion when I gave it.

Q. You say there was an agreement at Cordova wherein everybody was allowed to vote; you lived in the division for 30 days; how do you know that?—A. I heard it talked of.

Q. Somebody told you?—A. I was there when such a stipulation was made.

Q. On election day?—A. Yes; on election day.

Q. When; at what time on election day?—A. This last year; 1918.

Q. Who made the agreement there at Cordova; who was speaking about it?—A. The matter was discussed between Mr. Jimmie Gallen and Deerer, Bud Sargent, and some others, and they agreed not to interpose any challenges on that ground.

Q. They were all Democrats?—A. Mr. Gallen has always been a Republican.

Q. Mr. Gallen was very much opposed to me at that time?—A. No; he wasn't.

Q. He voted against me.—A. Did he?

Q. You don't know that Mr. Gallen is a Democrat?—A. He had always passed as a Republican.

Q. And Mr. Gallen was mad at me?—A. Mr. Gallen was not mad at you. He is a Republican and was a candidate on your ticket.

Q. When?—A. Last fall. He ran for road commissioner and supported the ticket.

Q. He wasn't working for Sulzer?—A. He was not at that time.

Q. You say that question was not raised in the other contest?—A. Yes; I am positive; I have the record here; if it was, you can easily show me if I am mistaken; I have no recollection of it being raised.

Q. It wouldn't be raised in that record; it would be raised in the briefs.—A. The briefs have to be based on the record.

Q. In the brief there is a reference to the law?—A. But there is no evidence in the record.

Q. And in my briefs I said it was illegal and void, and I did what I could to combat it?—A. I don't remember; I think you took the stand that the Territorial law had no application. There was no evidence in the case.

Q. That is your opinion about it?—A. The record will show.

Q. The whole record?—A. Does the record show any such testimony?

Q. I think it does; I am talking about the briefs where the question of the law was raised and agreed to by the committee.—A. What votes were thrown out on that ground?

Q. I haven't the record. Don't you know I was in Juneau on election day last November?—A. You said you were.

Q. You haven't any doubt about it?—A. I wasn't there.

Q. You weren't there?—A. No; I was in Cordova.

Q. Well, I was there and didn't vote.—A. Well, I was there and didn't vote.

Q. You don't belong to that division?—A. I didn't attempt to vote.

Q. Well, I was in Juneau and didn't attempt to vote.—A. I was in Cordova and I didn't attempt to vote.

Q. I haven't voted in any other precinct than my own since the election law was passed.—A. Neither have I, Judge.

Attorney GRIGSBY. I want to offer in evidence the testimony of C. E. Hibbs, contained on pages 324 to 331, of the volume containing the contested election case of James Wickersham v. Charles A. Sulzer, and the testimony of David Waggoner contained on pages 226 to 231 in the same volume.

Judge WICKERSHAM. As to the testimony of Waggoner I object; there has been full opportunity to interrogate all witnesses in these hearings and it is not the best evidence; you could have examined those men, and did examine Waggoner as a witness in your behalf in Juneau recently, and I move to strike it out.

Attorney GRIGSBY. We have no witnesses left over, so I suppose the hearing is adjourned for the present.

Notary WINSTON. So adjourned.

GEORGE B. GRIGSBY.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

(Testimony of C. E. Hibbs; copies as follows:)

Pursuant to a notice dated at Ketchikan, Alaska, on the 2d day of July, 1917, and the said notice being attached hereto, the undersigned notary public did, at the place mentioned in the said notice, proceed to take the said depositions.

Mr. Harvey Sellers appeared in behalf of the contestee, Charles A. Sulzer, and Hon. James Wickersham appeared per se.

The following oath was taken by each witness:

"You do solemnly swear that the testimony that you are about to give in the matter of the contest between James Wickersham, contestant, and Charles A. Sulzer, contestee, now pending before the House of Representatives of the Congress of the United States, shall be the truth, the whole truth, and nothing but the truth, so help me God."

The following-named witnesses appeared, were sworn, and testified: C. E. Hibbs, Mrs. C. E. Hibbs or Winifred Hibbs, Rev. E. E. Bromley, R. J. Peratovich, C. D. Calhoun, and George Demmert.

That the attached papers consisting of 44 pages, written in long hand and subscribed by the witnesses, is all of the testimony taken at said hearing and is a full and complete record of the said hearing, together with contestant's Exhibit A.

Dated at Ketchikan, Alaska, this 31st day of July, 1917.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

#### DEPOSITION OF C. E. HIBBS.

Q. What is your name?—A. C. E. Hibbs.

Q. Are you the same party as set out as C. E. Hibbs in this subpoena?—A. Yes, sir.

Q. Where do you live?—A. Klawock, Alaska.

Q. How long have you lived there?—A. Since September, 1914.

Q. Were you residing there at the time of the last election, 1916?—A. I was.

Q. Where is your voting precinct?—A. Craig, Alaska.

Q. What is your occupation?—A. United States Government teacher.

Q. Where at?—A. Klawock, Alaska.

Q. What school?—A. Department of the Interior, Bureau of Education, over the native schools.

Q. That includes Klawock?—A. Yes, sir.

Q. Were you at Craig the last election, and voted here?—A. Yes, sir.

Q. Now, I want to know if you know these people whose names I read [reading]: "C. W. Demmert?"—A. Yes, sir; I do.

Q. "Emma Demmert, Spencer Williams, George Demmert, Jack Perotovich, R. J. Perotovich, Jas. Perotovich, William Jones, John Darrow, J. S. Johnson, Donald Kathlean, Maxfield Daklin, Lee Anneskit, George Roberts, Henry Roberts, George Fields, Peter Wilson, J. K. Williams, John Skan, Fred Williams, Roy Williams, Richard Collins, A. W. Thomas, Sam Gunyah, Arthur James, William Gunyah, Albert Thomas, James Rowen, Peter Scott, Jimmie Jackson." Do you know all these people?—A. I do.

Q. How long have you known them?—A. I have known all of them since coming to Klawock, 1914.

Q. What way do you know them?—A. I have been intimately acquainted with them, socially, in store work, village work, church work, and every phase of the village work and society.

Q. Are they natives of Alaska?—A. They consider themselves such, yes; they are all of them born within the Territory, I think.

Q. Can they read, write, and speak the English language?—A. Yes, they can; all of them.

Q. Have they severed their tribal relations?—A. Yes, they have. Since I have been in the village of Klawock there has been no semblance of any tribal relationship, in a village of 300.

Q. Are they living a civilized life, same as white people?—A. They are.

Q. Were those people here at last election, November 7, 1916?—A. We all came up on the same boat.

Q. Did they vote at that election here at Craig?—A. They did not.

Q. Why didn't they vote?—A. They were told by the judge that they would not be allowed to vote.



Q. Did they offer themselves to vote?—A. Not all of them. There were three or four that went into the polls to vote and they were told that they could not vote, so the others did not go in.

Q. What reasons were they given that they could not vote?—A. Because they were Indians.

Q. Do you know whether they ever voted before?—A. I think all of them have. Two years ago practically all those that were able to read and write in the village came up with me and voted.

Q. What kind of business are these people engaged in?—A. Do you want me to give the business of each one individually or generalize?

Q. Where you can, you can group the business.—A. C. W. Demmert is a former merchant, at present engaged in the fishing industry; have bought the buildings and old cannery equipment at Kulm Islands. Emma (his wife), Spencer Williams, Jack Perotovich, James Perotovich, William Jones, John Darrow, George Roberts, George Fields, Peter Wilson, Roy Williams, Richard Collins, Sam Gunyah, Arthur James, William Gunyah, Albert Thomas, James Rowen, Peter Scott, Jimmie Jackson, Donald Kathlean, are all fishermen. George Demmert is clerk and manager of the Klawock Commercial Co. R. J. Perotovich, proprietor of general store and moving-picture establishment. J. S. Johnson, boat builder. Henry Roberts, gas-boat engineer. J. K. Williams, carpenter. John Skan, seine maker. Andrew Thomas, boat builder and a minister. Maxfield Daklin, proprietor of a pool hall. Lee Anneskit, gas-boat engineer. Fred Williams has just received an honorable discharge from the United States Navy, and at present fishing.

Q. What kind of government have these people at Klawock?—A. We have organized under the laws enacted by the legislature two years ago, allowing native villages to organize, ours being the first village to incorporate under this law.

Q. What is the nature of your corporation and what part do the natives take in it?—A. It could better be answered by reading the enactment, but the substance of it is that all native villages with a population of 40 or more persons petitioning may receive a charter or authority for self-government whereby they can elect their own officers, levy and collect taxes, enforce their laws, the condition being that they give up all tribal relations.

Q. This has been done, has it?—A. It has; yes, sir.

Q. They have a cooperative store there?—A. Yes, sir; they have.

Q. Explain the nature of it and what part the natives have in it.—A. It is a store organized by the native people. They supply all of the stock, elect their own directors, a clerk, and manager of the store. At present the Government teacher is taking care of the books and doing the buying, his books being audited once a year by a representative of the Bureau of Education to see that everything is conducted legitimately and make it a safe investment for the natives.

Q. Have you a brotherhood and a sisterhood literary society there?—A. There are three separate organizations. The brotherhood, a fraternal organization among the men; the sisterhood, a ladies' organization; the literary, an educational society for the whole village.

Q. The names of the people who were mentioned before, are they connected with these societies?—A. I think they are connected with one or more.

Q. Are they connected with the cooperative store?—A. Part of them are and part of them are not.

Q. How do they live and what kind of houses do they live in?—A. Why, they—every house in the village is a frame house. They live the same as all people that I have been associated with. The store handles the same merchandise, furniture, and things that all stores handle. Practically all sold to the native people.

Q. Have they any church societies? If so, what part do these natives take in them?—A. They have two church organizations there; two church buildings, both buildings being owned and built by the natives themselves. The Presbyterian Church has a missionary in charge of the work there. The Salvation Army is conducted solely by the natives themselves.

Q. The names of these Indians; are they full-blooded Indians or half-breeds? The names of these people, rather?—A. There are seven of them that I know to be half-breeds.

Q. Name them.—A. C. W. Demmert, Emma Demmert, Jack Peratovich, R. J. Peratovich, James Peratovich, William Jones, George Fields. The others are Indians, or more or less mixed.

Q. You brought all of these people down here to vote November last?—A. No; I did not bring them, I came with them. They furnished the gas boat.

Q. Were you with them before?—A. Before they came?

Q. Were you with them the election previous to this?—A. Yes; I was. They furnished the boat and we all came down together.

Q. Do they elect their own officers and are they familiar with voting—A. Oh, yes.

Q. And they can all read and write the English language and are fairly educated?—A. They are.

Q. Did you discuss the election with them or they with you before you came over—in your presence?—A. Just previous to the time we got here.

Q. The election of Delegate? The election of November 7, 1916?—A. Those things were discussed in a general way, I suppose; there was no general discussion on them. The only definite general discussion on the election with the people of Klawock was the Sunday previous. A meeting was called in the Presbyterian Church on Sunday afternoon at which Mr. Bromley—Rev. Bromley—and myself discussed the liquor question with them.

Q. If you know, state how they intended to vote on the Delegate question.

(Objection by Mr. Wickersham, that it is hearsay and not possible for the witness to know how an elector would vote in the booth when marking his ticket, and not the best evidence.)

A. Not all of them have discussed or have talked to me, but all who have were favorable to Mr. Sulzer.

Q. Can you take this list and say how many, without naming them, would vote for Mr. Sulzer?

(Objection by Mr. Wickersham renewed.)

A. I am positive that more than 20 would have voted for Mr. Sulzer.

Q. Do you know where these people are, and if we can get at them?—A. I know what cannery they are fishing for, excepting one.

Q. Is this the fishing season?—A. It is. The fishing season is right at its height now.

Q. And they are all scattered and busy?—A. These are some of them that have been out on the fishing grounds for more than two weeks.

Cross-examination by Mr. WICKERSHAM:

Q. Mr. Hibbs, with whom are you engaged?—A. The Department of the Interior. Bureau of Education, Alaska division.

Q. What is your official designation or title?—A. United States Government teacher.

Q. When were you first employed as such in Alaska?—A. 1912.

Q. Where were you first located?—A. Hydaburg, Alaska.

Q. When did you first come to Klawock?—A. September, 1914.

Q. You say that Klawock is incorporated under the act of the legislature approved April 27, 1915, and entitled, "An act to define and establish the political status of certain native Indians within the Territory of Alaska." I now show you a copy of that act and ask you if that is the act you mean?—A. No, sir; this is not the act.

Q. What act did you have reference to?—A. An act allowing certain native villages to organize, a synopsis of which I gave in my answer to the former attorney or examiner.

Q. Do you know when that act was passed?—A. I do not know the exact date. It was passed by the legislature held in Juneau, 1915. I believe that is the date.

Q. At the same legislature which passed this act which I showed you?—A. Yes, sir; at the same legislature.

Q. Have any one or more of the natives you have mentioned here to-day also complied or attempted to comply with the provisions of the act to define and establish the political status of certain native Indians within the Territory of Alaska, approved April 27, 1915, which I now show you?

(Objection by Mr. Sellers that the same is immaterial.)

A. No; none of them have.

Q. Is Klawock an old Indian village?—A. I think that it is.

Q. How old?—A. I think more than 25 years.

Q. How many white people live there?—A. About seven, I think, now have their homes there.

Q. Who are those seven?—A. The missionary and his family are four, the Government teacher and his wife two; one white man married to a native woman.

Q. Under the law this village is controlled entirely by the natives?—A. Yes, sir.

Q. Why are there not more white men there?—A. They have been moving out from time to time the last few years.

Q. Are more white men permitted to come there and locate?—A. That is wholly up to the town council.

Q. The town council being natives?—A. Yes, sir.

Q. All these Klawock people, except these few you mentioned, are full-blooded Alaska Indians, are they not?—A. Not all—they are full-blood or breeds; they are more or less mixed.

Q. But they have lived there for 25 years, as Indians, have they not?—A. A part of them have. within the last few years—I will say three or four years. Many new families have moved in and are moving in for school facilities.

Q. The school maintained there is one known as an Indian school and is maintained by the United States, is it not?—A. It is maintained by the United States, but is under the Bureau of Education and not under the Bureau of Indian Affairs.

Q. Do you not know that no Indian school in Alaska is maintained under the Bureau of Indian Affairs?—A. There is none maintained under the Bureau of Indian Affairs that I know of.

Q. Well, is it not true that all Indian schools in Alaska, including that at Klawock, are maintained by the United States under the control of the Bureau of Education?—A. All native schools of Alaska are maintained by the Bureau of Education, the Department of the Interior.

Q. Why do you not answer the question as it is asked?—A. I think that I have.

Q. I asked you if it is not true that all Indian schools in Alaska, including that at Klawock, are maintained by the United States under the control of the Bureau of Education. Won't you please answer that question?

Mr. SELLERS. I object, because I think that it is immaterial, as I think that the witness has already answered.

A. My answer answered that perfectly, except that I used the word native instead of Indian, because our department does not designate between the natives of Alaska, whether they be Indians or Eskimos.

Q. Well, the Klawocks are not Eskimos, are they?—A. They are not.

Q. Then, they are Indians, are they not?—A. They are.

Q. Now, the United States also maintains public schools outside of towns incorporated by the whites, such as Juneau, Katchikan, and the like, for the education of white children; is that correct?—A. They may. The Bureau of Education maintains the same kind of schools in the South.

Q. Do you or do you not know, Mr. Hibbs, that the United States also maintains public schools outside of towns incorporated by the whites, such as Juneau, Katchikan, and the like, for the education of white children separate and apart from those maintained for the education of Indians, such as that at Klawock?—A. I think that they do.

Q. Of all those people from Klawock which you have named, which one or more of them actually offered to vote on November 7, 1916, and were you present and heard him ask for a ticket and demand the right to vote?—A. My answer will necessarily be a little long. When the boat landed that brought the people from Klawock, a number of the people from Klawock, including myself, went immediately to the polls. Among these that I distinctly remember were C. W. Demmert, Emma Demmert, R. J. Peratovich, and John Darrow. I was standing near the table when C. W. Demmert sat down in the chair at the table to register and was told that he could not vote. A general discussion followed, more of the people from Klawock came in and the judges told me; they told C. W. Demmert and all the Indians present that no Indian would be allowed to vote. No others went forward and personally offered themselves as it was entirely useless.

Q. Is there a tract of land marked off at Klawock by order of the Government or any official for the use of the Klawocks?—A. There is.

Q. How large a reservation is it?—A. It comprises a small island. I should judge a square mile in extent.

Q. By what authority was this Indian reservation created and when?—A. It is not an Indian reservation. It is not thus designated in the proclamation issued by Woodrow Wilson, but is a tract of land set aside by request of the Bureau of Education for the use of the Bureau of Education and the natives of Alaska, and was set aside in 1913, I believe.

Q. But it is a tract of land used exclusively for the education and homes of the Klawock Indians, is it not?—A. The Indians that reside at Klawock. They are moving in from Shakan, Karheen, Kake, and other villages.

Q. Did you know the father of Jack Peratovich and the two other men of that name?—A. I did.

Q. In what country was he born? Italy?—A. I think he was a native of Austria.

Q. Do you know whether he became a naturalized citizen of the United States or not?—A. I can say that I do know, for I have been told by good authority. I have never seen his naturalization papers. I consider that a fair answer.

Q. All you know about his having been naturalized is what some person told you, is it?—A. In the discussion of the election afterwards, his two sons told me that their father was a naturalized citizen and that their mother had his papers.

Q. Is that all that you know about it?—A. That is all that I know about it. Their mother lives in the village, and I had always supposed that the papers could be gotten if they were wanted.

Q. Do you know whether the papers are his first or his final papers?—A. I do not.

Q. You mentioned that six or eight of these named by you are half-breeds. Do you know whether their fathers were citizens or not?—A. Personally, I know that one of them was. The father of C. W. Demmert, who offered to vote, was a veteran of the Civil War. He just died in the State of Washington in a veteran's home, and the papers were sent up and are now in an attorney's hands giving his property and the pension due to C. W. Demmert.

Q. Do you know anything about the citizenship of any others?—A. No; I do not.

Q. How long were you Government school-teacher at Hydaburg?—A. Almost two years. I was assistant there.

Q. Do you know where the Hydaburg Indians came from?

Mr. SELLERS. I object to that as immaterial.

A. I know nothing of the Hydaburg Indians except that they came from the villages of Howkan and Klingquan. That they had asked the bureau to be removed to a new location.

Q. Do you not know that either those now at Hydaburg or their fathers and mothers came from the Queen Charlotte Islands?—A. I do not. I have been told that the Hyda Indians came from British Columbia.

Q. That is, from Queen Charlotte Islands?—A. It may be; I do not know.

Q. Do you know that 35 or more of those British Columbia Indians voted for Mr. Sulzer at the town of Sulzer at the election last November 7?—A. I do not.

(Objection to the question by Mr. Sellers. That it is incompetent and immaterial. That we are not trying the Sulzer vote here and has no bearing on this case or on this hearing.)

Q. Well, are you not as well acquainted with the Hydaburg Indians and their actions in this recent election as with those at Klawock?

(Same objection by Mr. Sellers.)

A. I am not. I spent less than two years at Hydaburg and only assistant teacher there. Personally I do not know a single Hyda born outside of the United States.

Q. Well, do you know where any of them over 21 years of age were born of your own knowledge?

Mr. SELLERS. I object to the question as to any of the natives not mentioned in this hearing, as it has no bearing on this hearing.

A. I can answer that as I have answered some previously.

Q. That somebody told you?—A. Yes; I have only been in the Territory five years so I can not swear as to anyone born before that.

Q. Who challenged Demmert's vote on November 7 last?—A. Mr. Hal Gould, I think, was the one that told him that he could not vote. Mr. Fred Butler and J. P. Smith were the ones who did the arguing.

Q. Is it not true that either Butler or Smith objected to his vote and the election officers sustained the objection? Is that what happened?—A. No, sir; Mr. Hal Gould told Mr. Demmert he could not vote, and in behalf of Mr. Demmert and the natives in general I asked for the reason and the argument followed. Butler and Smith took active part.

Q. Who were the election officers?—A. Hal Gould, John Lindsay, J. N. Coker.

Q. Who appointed these election officers?—A. I do not know.

Q. Do you know who is commissioner and ex officio justice of the peace in the Craig precinct?—A. I do.

Q. What is his name?—A. Charles Fox.

Q. Do you know who appointed him?—A. Appointed by the governor. I think. No; he is appointed by the district judge, not the governor.

Q. Who is the district judge in this division who appointed him?

Mr. SELLERS. I object because it is immaterial, and I move that all questions along that line be stricken because it does not make any difference who the judges were or who appointed them, and for the further reason that it has no bearing on the legality of those voting.

A. Judge Jennings is the district judge. I do not know whether Fox received his appointment from him or previous to that, as Fox has been commissioner since I have had anything to do with the commissioner in this Territory.

Q. Do you not know that Judge Jennings and Commissioner Fox and these election officers are all Democrats and friends and supporters of Mr. Sulzer?—

A. I do not. I know that Mr. Fox is a friend of Mr. Sulzer. Mr. Jennings I know nothing of whatever.

Q. What do you know about the election officers? They are Democrats, are they not?—A. I think Mr. Coker is. The other two I do not know. I have never discussed politics with either of them.

Q. Mr. Fox is a Democrat, is he not?—A. I think he is.

Q. You are a Democrat, are you not?—A. No, sir; I am independent; I do not affiliate with any party.

Q. Did you vote the Democratic ticket last fall?

(Objection by Mr. Sellers that it is incompetent.)

A. I don't believe that it is necessary for me to go into my political views.

Q. You are not ashamed of them, are you?

Mr. SELLERS. I do not think that is fair.

A. I am not ashamed of them, but I do not think that it is necessary.

Q. You were a strong supporter of Mr. Sulzer, were you not?—A. Yes, sir.

Q. Did you furnish the list of witnesses in this case?—A. I did; yes, sir.

Mr. SELLERS. I object to the encumbering the record by such questions.

Q. And you have been very active in gathering the witnesses and presenting the witnesses in Mr. Sulzer's behalf, have you not?—A. I have been very active in gathering these witnesses because I believe in the enfranchisement of the natives. I began this fight the next day after election.

Q. But is it not true that you appealed to Mr. Sulzer's friends for support and are trying to get credit only for those natives whom you contend would have voted for him?—A. No, sir; that is not true.

Q. Do you know of any of the witnesses named by you who would have voted for me?—A. I do not.

Q. What State did you come from, Mr. Hibbs?—A. My native State was Iowa; I spent most of my life in Kansas—more than 20 years in Kansas.

Q. Where were you appointed from?—A. Bellevue, Wash.

Q. Do you know of any money having been used in gathering the information relating to this hearing in any way, shape, or manner?—A. I know nothing about it whatever.

Q. No part of your expense has been paid?—A. No, sir.

Q. Does the Bureau of Education permit the Government school-teachers to take part in partisan politics as you have?

Mr. SELLERS. I object to any question along any lines other than to the legality or illegality of the voters. I want my objections to run to all these questions.

A. I have taken no part in party politics and ask permission of the court to qualify my statement, if I may. Since I have been in Alaska the past five years the natives who are able to read and write and that are known to have laid aside all tribal relations have been allowed the right of franchise. When the law passed two years ago allowing a certificate of citizenship to natives of Alaska I asked Supt. Beattie what effect it would have on the rights of the natives, and he told me that it would have none whatever; that it only allowed natives a proof of citizenship that they could take advantage of if they wished. Prior to the election last fall I asked Mr. Sulzer when he was through, and as he was instrumental with Mr. Beattie in getting this bill through he told



me the same thing. I afterwards took up the matter with Supt. Hawkesworth, and he told me that in a conversation with Mr. Wickersham, Mr. Wickersham had told him that the natives had a right to vote. I came to Craig with no thought of native votes being challenged, and when they were I asked permission of the judges for permission to swear in just one vote to make a test case of it. This was refused. I felt, then, as I do yet, that this is an injustice to the native, and, while I have already stated that I am a friend and a supporter of Sulzer, I have not in any way made this a personal or political fight. But from the position that I am in and the duties devolving on me I hold it a sacred duty to see this fought to a finish. If the natives have not the right to vote, I do not want to be wasting my efforts in trying to get them to vote. If it is their privilege to vote, then I want to see it granted regardless of who they vote for.

Q. Well, if that is your view, why don't you proceed in the way pointed out by the Legislature of Alaska in the other act provided for their benefit, being the act entitled "An act to define and establish the political status of certain native Indians within the Territory of Alaska," approved by the governor of Alaska April 27, 1915, whereby you could accomplish what you say you want without mixing up in partisan politics as you now are?—A. Because I do not believe from our Federal laws and what other information I am able to obtain that this is necessary, and it only incurs a great amount of expense on each native taking advantage of it; and, therefore, if it is not a duty in order to become a citizen, then I leave the question entirely with the native.

Q. Do I understand you to say that the officials of the Bureau of Education in Alaska do not intend to follow the act of the legislature in this matter, but approve your course in intruding these questions into political fights, without regard to the law as passed by the legislature?—A. The Bureau of Education has nothing to do with that part of it, and the only way to get these matters properly settled is by going to the polls.

Q. But you know, do you not, that if the native would comply with the act of the legislature mentioned he could not be prevented from voting in Alaska, and no objection would be made to his vote?—A. I know that. I also know that no law of our Territorial legislature can supersede a Federal law: therefore it is a matter for the native himself to decide whether he wants to apply for a certificate of citizenship or not.

Q. Then you think the native may disregard the act of the legislature and vote whenever he or the Government school-teacher thinks he ought to do so: Is that your idea?—A. No, sir; not in the least.

Q. Well, you think that you may disregard the act of the legislature, do you not?—A. I do not consider this a disregard of the act of the legislature. The Federal law establishes the political status of the native, because of the derision in which the native is held by many, this law allowing him a certificate of citizenship is, as it reads, simply a proof of citizenship. When he is where he is known personally and can prove his citizenship, then it is not necessary. It is simply a privilege that he may accept if he wants.

Q. Do you advise the natives that way?—A. I do.

Q. You advise them they need not comply with that act of the legislature?—A. Yes, sir; unless they wish. I show them the advantages of it and leave it entirely to their judgment.

Q. Why do you not advise them to obey the laws that are passed for their benefit, such as this one was?—A. I believe that I have answered that question in three previous answers.

Mr. SELLERS. I object to this as incompetent and as not the proper cross-examination.

Q. Mr. Hibbs, you will admit that if the Indian took advantage of this act of the legislature and secured the order of the judge of the district court of Alaska, it would leave no doubt of his status as a citizen of the United States, do you?—A. Certainly I know that; but it is unnecessary, as I before said.

Q. Then, why do you think the legislature of Alaska passed and Gov. Strong approved that act?—A. For the same reason that I gave a while ago, for the reason that those who wish to take advantage of it when they are going among strangers.

Q. Suppose you should be mistaken about this, you would do the Indian a great injury?—A. That is the reason that I am in this matter, so that it will be decided by our courts, as I want to know.

Q. While this witness is on the stand, and as a part of his cross-examination, I offer a printed official copy of the act of legislature entitled "An act to define

and establish the political status of certain native Indians within the Territory of Alaska," approved April 27, 1915, and ask to have it filed, marked, and attached to the deposition.

Mr. SELLERS. I object to the introduction of it, for the reason that it is incompetent.

Q. Mr. Hibbs, do you not realize that if you were to advise the Indians to comply with that act of the legislature it would enable each of them to have his status settled as a citizen judicially and finally and save all question thereafter as to the citizenship of his parents or whether he was born in British Columbia, and all such questions?—A. I could not conscientiously advise them, because our distance from the judge and the time and cost in getting to the judge is so great, and as I do not believe and have been advised by good authority that this was not necessary. I believe that it is a matter to leave entirely with the native as to whether he wants to make such application or not.

Q. Then why do you not do it?—A. Just as I have just answered. I think it is an injustice to the native.

C. E. HIBBS.

Subscribed and sworn to before me this 25th day of July, 1917.

[SEAL.]

WILL H. WINSTON,  
Notary Public for Alaska.

My commission expires June 12, 1921.

Testimony of David Waggoner copies as follows:

This is to certify that under and pursuant to the foregoing and hereto attached notice of deposition.

The deposition of David Waggoner was taken before the undersigned notary public, at his office in the town of Juneau, Alaska, between the hours of 10 o'clock a. m. and 4 p. m. on the 6th day of August, A. D. 1917, beginning at the hour of 10 o'clock; John Rustgard, Esq., appearing as attorney for contestant, James Wickersham; and J. A. Hellenthal and John R. Winn, Esqs., appearing as attorneys for contestee, Charles A. Sulzer.

Before the said witness, David Waggoner, was sworn as witness on behalf of contestant, and before any proceedings were had, the following objection was made by J. A. Hellenthal to the taking of the deposition:

Counsel for the contestee, Charles A. Sulzer, object to the taking of testimony under notice served for the following reasons:

In the first place, the notice does not give the place of residence of any of the witnesses, and is in that regard insufficient under the statute, and for the further reason that under the statute five days' notice must be given, whereas the notice gives but four days' notice.

#### DEPOSITION OF DAVID WAGGONER.

DAVID WAGGONER, a witness on behalf of the contestant, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. RUSTGARD:

Q. State your full name, Mr. Waggoner.—A. David Waggoner.

Q. Where do you live?—A. Juneau, Alaska.

Q. How long have you lived in Juneau?—A. Since the 28th day of September, 1914.

Q. What is your occupation?—A. Presbyterian minister of the native missions in Juneau and Douglas.

Q. Prior to coming to Juneau, where did you live?—A. At Klawock, Alaska.

Q. Whereabouts is Klawock?—A. About midway on the west coast of Prince of Wales Island.

Q. How long did you reside at Klawock or in that neighborhood?—A. My home was in Klawock from about August 11, 1901, until the 26th of September, 1914.

Q. At that time and during that period you were the Presbyterian missionary among the Hyda Indians in that neighborhood?—A. Not all the time. Up until the summer of 1906 I had charge of the Thlinget Indians at Klawock and in that neighborhood, and the Hyda Indians also from the spring of 1906 until about September, 1914.

Q. The Thlinkets and the Hydas are two distinct races of Indians, speaking two distinct languages?—A. Yes, sir.

Q. Are you acquainted at Hydaburg, Mr. Waggoner?—A. Quite generally.

Q. What time was Hydaburg established?—A. In the fall of 1911, between September and November.

Q. That is an Indian village established for Hyda Indians on the Government reservation created for that purpose?—A. The Indians were there prior to the establishing of the reservation, but the reservation was established upon their request, and it was for Hydas and other natives. But the proceedings were under way at the time they went there in September.

Q. The Executive order creating the reservation was not actually signed until after the Hydas had established themselves in that place?—A. I think in 1912.

Q. But the proceedings to have the territory segregated as an Indian reserve had commenced prior to the establishment of the Hydas at that place?

Mr. HELLENTHAL. I make the objection that nothing in the evidence of these Hyda Indians can be reserved as rebuttal testimony, and I make the further objection that the Hyda Settlement is not an Indian reservation but a mere withdrawal of Government land for the use of the Indians by Executive order. If any testimony is to be adduced tending to show that this is a reservation, the Executive proclamation is the best evidence.

Mr. RUSTGARD. You may answer the question.

A. I think it had.

Q. At the present time are there any but Hyda Indians living on that reservation?—A. I believe there are. I think there are a few Thlingets—very few—and a few white married men and the Government employees.

Q. Can anybody reside on that reservation except those who have the permit of the Government officials?

Mr. HELLENTHAL. I object on the ground that that is not rebuttal or the best evidence.

Mr. RUSTGARD. Answer the question.

A. I think the permission is somehow arranged for through the town council.

Q. The permission must be had through the town council?—A. Yes; that's what I think.

Q. The reservation is primarily in charge of the United States Bureau of Education?

Mr. HELLENTHAL. I object on the grounds of this not being rebuttal and of the best evidence.

Mr. RUSTGARD. Well, the Bureau of Education built the wharf there?

A. The natives built the wharf.

Q. Who furnished the money?—A. The natives.

Q. The Bureau of Education built the school?—A. The school building.

Q. And the United States Bureau of Education paid the teachers?—A. Yes, sir.

Q. They do not at the village have what is known as the Territorial school under the Nelson act?—A. All native schools are under the Bureau of Education, inside and outside of incorporated towns.

Q. There is no other school at Hydaburg except the one operated by the Bureau of Education?—A. No, sir.

Q. I hand you here a list of names purporting to be a certified copy of the registration list of the election for Delegate from Alaska, held at the precinct of Sulzer, Alaska, November 7, 1916, and I ask you to read from that list the names of such Indians as you know to be residents of Hydaburg. Read the names slowly enough so that Mrs. Burbach can get them.

(Objection by Mr. Helleenthal, counsel for contestee, Charles A. Sulzer, on the ground that the testimony sought to be elicited is not rebuttal; that no testimony was taken on the part of the contestee in relation to the election held in the precinct of Sulzer, and that there is therefore nothing to rebut. The objection being especially urged because the contestee would have no opportunity to bring witnesses to prove or disprove any facts in relation to the election in the Sulzer precinct; and the time for taking testimony on the part of the contestee having expired and there being no provision under which the contestee may take further testimony after the rebuttal testimony now being taken on the part of the contestant has been completed; and the further objection is made to this testimony that the same is irrelevant and immaterial, there being no issue raised in the pleadings with reference to the validity or invalidity of the votes in the Sulzer precinct, and no claim made that persons voted who had no right to vote.)

Mr. RUSTGARD. Read the names:—A. Alex Peele, George Haldane, Peter Nathlan, Benson Skulthka, J. S. Brown, Paul D. Morrison, Fred Grand, Charlie Scott, Mason Frank, Powell Charles, Thaddens Isacs, Matthew Scott, Jack George, David Nathlan, Boyd Nakathla, Albert Nathkang, Sam Douglas, Mike George, Luke Frank, Fred Wallace, Alex Yealthtatz, Robert Edenshaw, Hugh Rogo, James George, David Jason, Willie Skulthka, Edwin Scott, Alex Spoon. These are all that I know that live at Hydaburg.

(It is agreed by and between counsel that the objection hereto made to the preceding question, with reference to the taking of testimony concerning the election at Sulzer precinct, shall go to each and all questions bearing upon that subject without specifically repeating the same.)

Q. On this list is the name of Katie Nelson. Do you know who she is?—A. She is the wife of Harry Nelson. She is a Hyda woman, but probably Nelson himself lives at Sulzer.

Q. You do not know where she lives?—A. I do not know whether in the town of Sulzer or Hydaburg.

Q. She is recognized as a Hyda Indian?—A. Yes, sir.

Q. I also ask you in regard to Mrs. Valensolo; she is the wife of Joe Valensolo. Now, is she a Hyda Indian?—A. Yes, sir.

Q. But she used to live at Hydaburg?—A. I think not. She was married and living with her husband prior to the establishment of Hydaburg.

Q. Where did she live then?—A. Mostly at Howkan.

Q. Howkan is an old Hyda village?—A. No; deserted.

Q. Now deserted?—A. Yes, sir.

Q. But until the establishment of Hydaburg, Howkan was one of the Hyda villages?—A. Yes, sir.

Q. Another Hyda village was Klinquan?—A. Yes, sir.

Q. Hydaburg is a consolidation of these two Hyda villages?—A. Yes; with a few from Kasaan.

Q. Have either of the counsel for Sulzer in this contest called upon you recently to ascertain what you were expected to testify to in this case?—A. No, sir; that is, nothing in regard to what I should say here.

Q. Well, what I mean is this, Mr. Waggoner: After the notice was given to take your deposition you were called upon by them with reference to these facts?—A. Yes, sir.

Q. At that time they knew you were to be a witness?—A. Yes, sir.

Q. And they told you they knew you were to be a witness?—A. Yes, sir.

Q. You were called upon by Mr. Hellenthal?—A. Mr. "Sy" Hellenthal.

Q. Yes; he is now present in the room; and a brother and partner of J. A. Hellenthal, in business?—A. I believe so.

Q. What time did he call upon you with reference to that?—A. Saturday; Friday—Friday evening.

Mr. RUSTGARD. I think that is all.

Cross-examination by Mr. HELLENTHAL:

Q. Mr. Waggoner, you have lived at Klawock and Hydaburg for a number of years?—A. Klawock has always been my home before I came to Juneau. Hydaburg was part of my parish for four years.

Q. The two villages are neighboring villages?—A. Fifty miles apart.

Q. The Alaskan natives residing in these two villages are in about the same state of civilization?—A. About.

Q. You have been acquainted with them for a number of years?—A. I have known the Thlingets at Klawock since August 11, 1901, and most of the Hydass since that time.

Q. You knew many of these Hyda Indians before they moved to Hydaburg?—A. Yes, sir; because of the fact that I acted as their minister, and they also were visitors at the town of Klawock.

Q. They were then residing in the neighboring villages?—A. You speak of the Hydass?

Q. Yes.—A. They were residing at Howkan and Klinquan.

Q. They had been residing in these villages ever since the white man came to Alaska?—A. Yes; I think so. I do not know when the Hydass came to Alaska.

Q. It was long before the whites came?—A. I think so.

Q. Now, the names that you have read from the Sulzer list of voters are all natives of Alaska with whom you are quite well acquainted?—A. Yes, sir.

Q. Is it not a fact, Mr. Waggoner, that all those men and women, while they are Alaska natives, either of the whole or mixed blood, have long since severed their tribal relations?—A. You mean those of Hydaburg?

Q. Yes; the names that you have read in the record.—A. The men are the residents of Hydaburg, because they have definitely severed their connections with the old customs of the Hydats at the old villages. That was the reason for the founding of the Hydaburg village.

Q. There is no such thing as a tribal house at Hydaburg?—A. No.

Q. Nor at Klawock?—A. No.

Q. The names you have read in the record are all young men who have severed their tribal connections before 1911?—A. Not all of them. There are a few middle-aged men who had not given up the tribal customs prior to about—well, a few years ago.

Q. In 1911 most all of them gave up their tribal relations and established the town of Hydaburg to carry out this very purpose. All of them, when they took up residence in Hydaburg, had to declare that they gave up tribal relations. There were a few names there that did not come in at the beginning of the town. They came in shortly afterwards, did they not?—A. Yes, sir.

Q. Now the town of Hydaburg is not in any sense an Indian reservation, where Indians are kept and herded as they are on reservations in the States?—

A. No, sir. The definition of reservation is a little different in Alaska.

Q. The town of Hydaburg consists merely of a portion of public land withdrawn with the purpose of giving the Indians a place on which to build a model site?—A. And in which to develop resources on their own initiative.

Q. The Indians of Hydaburg come and go as they please?—A. Yes, sir.

Q. There is no Government Indian agent to regulate their affairs?—A. No, sir.

Q. They live in that community just as the white people of Juneau live in the town of Juneau?—A. I think so.

Q. Have the same liberties of coming and going?—A. As far as their movements are concerned; yes.

Q. The Government does not in anywise seek to restrict their movements or otherwise control them?—A. No, sir; not physically.

Q. The Government has established there a school?—A. Yes, sir.

Q. With the view of educating them? But, aside from this, the Indian manage their affairs?—A. The Government intends to educate them in business and town life as well as school.

Q. All the names that you have read on the record are names of men and women who can read and write the English language?—A. I can not tell that definitely. Nearly all can read and write. There may be some who can not.

Q. They can speak English?—A. Yes. I have held conversations with all of these.

Q. In the English language?—A. Yes.

Q. They are living in their separate homes like white folks?—A. Yes, sir.

Q. They have all adopted the habits of civilized life?—A. Yes, sir.

Q. Their houses are such as form the abodes of white men?—A. Of white men in the same circumstances; yes.

Q. Some larger and some smaller?—A. Some are quite comfortable and furnished very well, and some are not so well furnished. Some are about the average home of the poorer class of workingmen.

Q. They have a store at Hydaburg?—A. Yes, sir.

Q. A cooperative store?—A. Yes, sir.

Q. The stock is owned by the Indians?—A. Nearly all. I believe provisions have been made for the superintendent of the school to hold a certain number of shares so that he may be one of the directors of the business. The stock is held by the natives, except one or more shares have been allowed to the school superintendent in order that he may be on the board of directors.

Q. The school superintendent purchases a certain number of shares?—A. I do not know that the constitution states definitely how many shares he may hold.

Q. The store is managed by the natives?—A. By the board of directors, with the storekeeper.

Q. The storekeeper is one of the Hydaburg Indians?—A. Yes, sir.

Q. Are there no other stores at Hydaburg?—A. Yes, sir; there were the last time I was there, but owned by individual natives.

Q. Also owned by natives?—A. Yes, sir.

Q. And are conducted solely by them?—A. By each person; yes, sir.

Q. Is it not a fact, Mr. Waggoner, that the inhabitants at Hydaburg and Klawock are intelligent fishermen and mechanics?—A. Yes, sir.

Q. And carry on their avocation in the same manner that white men do under similar circumstances?—A. Yes, sir.



Q. Is it not a fact that some of these men are highly skilled mechanics?—  
A. Yes, sir.

Q. On gas boats as well as otherwise?—A. Yes; and some are boat builders,

Q. Carpenters?—A. Yes.

Q. Machinists?—A. Yes; some to a degree—the result of their training.

Q. They received their training that you mention in the Indian schools?—  
A. Yes.

Q. Is it not a fact that some of these men work in the mines?—A. I think not, in Hydaburg or Klawock. I do not know of any of these Indians working in the mines.

Q. Is it not a fact, Mr. Waggoner, that one of the young men who mother resides in one of these communities, by the name of Taylor, is a commissioned officer in the United States Army?—A. Yes; so I was told by the superintendent of the Indian school at Chemawa. The mother belongs at Klawock.

Q. Is it not also a fact that one of the young natives, raised in one of these communities is now serving the United States in the capacity of recruiting officer in the State of New York, teaching the white people of the most populous city in the United States their duty as American citizens?—A. I believe so.

Q. Mr. Waggoner, as an American citizen and as a man thoroughly familiar with the conditions in these Indian villages, do you know of any reason why these men should not be given the right to vote?

Mr. RUSTGARD. I object to that as simply calling for the opinion of the witness and does not call for any statement of facts.

Mr. HELLENTHAL. Question withdrawn. That is all.

#### Redirect examination:

Q. The boy that you referred to as teaching in New York; is he one of these voters?—A. No, sir.

Q. What is his name?—A. Charlie Cutter; he is always known as Chief Eagle Horse where he sings on the circuit.

Q. Where was he born?—A. At Klawock.

Q. One of the Thlinget Indians?—A. Yes, sir.

Q. How long since he left Alaska?—A. He has been at school and on the lyceum circuit more than 16 years.

Q. He has been exhibiting himself for money?—A. He has been singing.

Q. Singing?—A. Yes, sir.

Q. Where was he educated?—A. First at Sitka, and then at Chemawa, Oreg.

Q. What is his special duty in New York at the present time?—A. As far as I know from seeing and reading the papers, he is recruiting for the Government.

Q. For what purpose?—A. For the war.

Q. In the Navy or Army?—A. I suppose in the Army.

Q. You have read about that?—A. Yes.

Q. He is held out as a curiosity?—A. I suppose so.

Q. You do not mean to say that all these natives whose names you have given at the present time are capable of doing the same as that native mentioned who is in New York?—A. You mean on the list?

Q. Yes, sir?—A. Not all, but most of them are equally intelligent.

Q. You referred to the one who is a commissioned officer?—A. Yes. He is the son of William Taylor, of Wrangell. I was told he was a commissioned officer by the superintendent of the Chemawa school.

Q. And the mother a Thlinket?—A. Yes, sir.

Q. How long since Taylor lived in Alaska?—A. He has been going to school two or three years. I think he has been up every summer.

Q. Attending at Chemawa, Oreg.?—A. Yes, sir.

Q. You said something about these Hydats, when coming to Hydaburg, had to sign a statement that they would abandon tribal relations. Will you explain further what that was?—A. I didn't mean to say that; if I did, I made a mistake in saying "sign." They all had to give their consent to the requirements that are specified in the law of 1887 in regard to the Indian citizenship; that they had severed the tribal relations, were observing the American marriage laws and inheritance laws, and had adopted the customs and ways of civilized life.

Q. Who provided for that?—A. That was provided for in the ordinances of the town council, as I understand it.

Q. This is an Indian town council?—A. Yes, sir.

Q. It is a council organized under the Territorial law of Alaska, 1915?—A. Not at first. It was simply a council organized by themselves in 1911, and then when the law of 1915 was promulgated they formed the Indian organization.

Q. That is what is known here as an "Indian village government," provided by the law of 1915?—A. Of 1915.

Q. And that Indian council determined the qualifications of the residents of Hydaburg?—A. Yes, sir.

Q. And that is the council that promulgated the rules which you have referred to?—A. Yes.

Q. This store which you have also referred to was established under the supervision and by the assistance of the superintendent of schools furnished by the Bureau of Education?—A. Yes, sir.

Q. And was established for the purpose of training the Indians in business?—A. Partly so; partly as a means of saving.

Q. In connection with this testimony I offer in evidence what purports to be a certified copy of the registration books of the last election held at Sulzer precinct. But before I offer it I wish the records to show that these pencil marks made in the form of check marks, to the left of the names and pencil writings to the right, are marks made by yourself, and not a part of the original list of the certified names.—A. I have made marks here [indicating].

Q. They are marks which were put there by yourself?—A. All of them.

Q. I simply want the records to show so that there will be no question.—A. Yes, sir.

Mr. RUSTGARD. I now offer this list in evidence, to be marked "Exhibit 1."

Mr. HELLENTHAL. I make an objection to the offer on the ground that it is not rebuttal and not the best evidence, and on the further ground that it is not a copy of anything. That is all.

Mr. RUSTGARD. I omitted to ask you about Sam E. Thomas. Is he a Hyda?—A. No, sir; he is a Thlinket.

Q. Does he reside at Hydaburg?—A. Probably resides at Sulzer. Probably there for work purposes.

Q. Do you know whether or not he ever resided at Hydaburg?—A. Intermittently. He formerly married a Hyda woman.

Mr. RUSTGARD. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. Referring to the last-mentioned gentleman, Thomas, he also has abandoned his tribal relations?—A. Yes, sir.

Q. He is living the habits of civilized life?—A. I think so.

Q. Just a question with reference to all of these men: Many of them are half-breeds and mixed blood?—A. Yes, sir.

Q. There are few of them who are full-blooded Indians?—A. There are quite a number of them full blooded.

Q. Some are full blooded and some are mixed blood?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Mr. RUSTGARD. That is all.

(It is admitted by counsel for contestee that a duplicate copy of the hereto-attached notice of deposition was given, one to J. A. Helleenthal and another to John R. Winn, in Juneau, Alaska, on Thursday, the 2d day of August, A. D. 1917.)

DAVID WAGGONER.

Judge JAMES WICKERSHAM duly sworn.

DEPOSITION OF JAMES WICKERSHAM.

By Attorney GRIGSBY:

Q. Judge, where were you on election day?—A. In Juneau, Alaska.

Q. Did you vote?—A. I did not.

Q. What are you politically?—A. I am a Republican.

Q. How long have you been a Republican?—A. For about 60 years, 62 years.

Q. Have you ever been a Democrat during that time?—A. Never.

Q. Ever run on a Democratic platform?—A. Never.

Q. Did you not run on a Democratic platform in the election of 1914?—A. No; I did not.

Q. Did you not in the campaign of 1914 proclaim yourself to be a Woodrow Wilson Democrat on the stump?—A. Never at any time or place.

Q. Never a Woodrow Wilson Democrat?—A. I have said frequently, at that time, that I thought very highly of Mr. Wilson because he had assisted us in the passage of the Alaska railroad bill. I commended him very highly, but that is as far as I ever went.

Q. Didn't you, on the stump here in Ketchikan, as well as in other places, state you were a Woodrow Wilson Democrat?—A. No.

Q. A Woodrow Wilson Progressive Democrat?—A. I might have said I was a Progressive and approved of Woodrow Wilson's actions in Alaska.

Q. But you didn't say you were any kind of a Democrat?—A. Not to my recollection, and I think I would recall if I made such a statement as that.

Q. Judge, in your specifications of grounds of contest, you allege that the canvassing board, whose duty it was to compile the returns of the election of November 5, 1918, purposely delayed their canvass until April 18 in order to embarrass you in determining your right to the seat?—A. Yes.

Q. What did you mean by that?—A. Well, I meant that the canvassing board had not taken the active interest in gathering the returns that the previous canvassing board had. The previous canvassing board after the election of 1916 had sent out telegrams to hurry things up, and did everything they could, apparently, to get the returns in and get them corrected and get the final result declared as promptly as they could. And it seemed to me that canvassing board was trying to accomplish results as soon as possible, but this one and Gov. Riggs seemed to be hanging back and not trying to do the work as rapidly as possible, and were holding back the situation generally.

Q. For what purpose?—A. I told you.

Q. You knew the returns were delayed from Nome?—A. I have since learned.

Q. Didn't you know it at the time?—A. No; I didn't.

Q. Do you retract that allegation?—A. I do not.

Q. You know now that the returns could not have left Nome until the 15th of February?—A. I know because you have said so, Mr. Grigsby, and I imagine you are telling the fact.

Q. You didn't know there was a quarantine of the mails out there?—A. Yes; I knew at Unalakleet—I was informed this was what they did, they brought the mail out there and left it and then the families on the other side would get the mail and those people would go away and the mail itself would be carried on, but I am not sure that was a fact.

Q. You didn't know that the canvassing board did wire to Nome for these returns?—A. No; I didn't know that.

Q. You were in Juneau along about that time?—A. I didn't get to Juneau, I think, until three days after Mr. Sulzer's death. I was there just before his death three or four days; then I went below and was in Seattle when he died, and I went back to Juneau.

Q. When you were up in Juneau, didn't you hear from Dan Sutherland why the canvass was not completed?—A. No.

Q. And you didn't have the slightest idea that it was because the Nome returns hadn't been received?—A. Oh, yes; I did have a slight idea, and I had an idea that there were probably other places in the Territory. If you remember, in the election of 1916 we waited for the election returns from Nushagak [incomplete].

Q. If you had the slightest idea why the returns were not in, why did you make that allegation that this board was purposely delaying their canvass?—A. I believed it was true.

Q. Do you believe it now?—A. Well, I am inclined to believe they were not as active as other boards in the matter.

Q. In what respect?—A. You know that the 1916 election was very close, and I had a contest over it and I won out and I believed then and I believe now that they were figuring on this 1918 election so as to skin me out of the election again, and I believed they were holding up things and I couldn't get any information out of Riggs or the canvassing board. I had telegraphed them [incomplete].

Q. Did you, while up in Juneau, seek for information?—A. Yes.

Q. Did you ask Gov. Riggs?—A. My attorneys were seeking for information.

Q. Didn't your attorneys tell you why the canvass wasn't completed?—A. To some extent.

Q. You knew they hadn't the returns from Nome?—A. Some of them, I am inclined to think so.

Q. So that when you made this allegation you knew the returns hadn't been received from Nome?—A. What is the date of the allegation—no; I didn't know that.

Q. Of course, they had been received on May 3?—A. I thought so; however, I believed they were holding out on me for the purpose of taking the 1918 election, just as they tried to do in the 1916 election.

Q. But you were up in Juneau prior to the death of Mr. Sulzer?—A. Three or four days.

Q. And had your attorneys there?—A. Yes.

Q. Did you make any inquiries from your attorneys why the canvass had not been completed?—A. I don't know; believe we talked about things.

Q. Did you send them around to make inquiries?—A. I have made many inquiries from Gov. Riggs [incomplete].

Q. Did you inquire about this?—A. I don't remember [incomplete].

Q. If the canvass had been completed before the Nome returns were in you would have been defeated by 200 more votes, wouldn't you, Judge?—A. I supposed, of course, the canvass would not be completed until the returns had all been received, although my faith in that respect has been greatly shaken under Mr. Grigsby's bill in this last election.

Q. Do you think the canvassing board was at fault under the bill?—A. I think they were in sympathy and acted with you.

Q. You don't think they complied with the law?—A. I don't know; I think the law is void. I think they took every advantage in the matter to assist you to put the last election over in violation of law.

Q. You don't think they complied with the terms of the special-election law?—A. I haven't any idea what they did; nobody knows.

Q. You know the law allowed them to receive returns by telegraph?—A. I know they issued a certificate to you long before they had received the returns; more than half the returns were out. I know that from a statement made to me by an official, which I have in my possession, by the secretary of the Territory.

Q. The law allowed them to do that?—A. No; it didn't allow it; you mean your law did.

Q. I am talking about my law, if you want to call it such; your Republicans voted for it; your friend Dan Sutherland and Mr. Heckman voted for it.—A. I think the record will show that Dan and Heckman voted against it.

Q. The record doesn't.—A. Whatever the record shows is undoubtedly correct in that case.

Q. Do you blame the canvassing board, a board of laymen, for following out the provisions of that law?—A. I don't hold any opinion about that, and it wouldn't make much difference. I think they were in with you in trying to get you into Congress as quickly as they could, so you could conduct this fight over the contest. I think that is the whole idea, George.

Q. Don't you think, Mr. Jones, had he been elected by the same majority I was, would have got his certificate just as soon?—A. I do not; it would have been held up over this summer.

Q. You know it wouldn't?—A. I am sure of it, in my own judgment; I don't know it, of course.

Q. Don't you think they would have wanted to get Mr. Jones down there to fight you as quickly as me?—A. I don't think they would; I know they wouldn't. The whole thing, Mr. Grigsby, was a partisan violation of the United States election laws; the whole scheme was one to overturn good government in the Territory of Alaska for partisanism.

Q. You know a special election had to be called on a shorter notice than a general election?—A. I know it does not.

Q. Isn't it on shorter notice in the State of Washington?—A. I don't know.

Q. It is.—A. That may be, but it is never so short that people can't have notice to get out and vote.

Q. You say they didn't have in this election?—A. I don't think so.

Q. How many precincts do you say didn't have an election?—A. I don't know; nobody knows, because they haven't made a final canvass and compilation of the votes. It is your system. [Incomplete.]

Q. You allege in your petition that it takes from four to five months to get the returns in after an election has been held?—A. Three to five months.

Q. It took 5 months and 11 days at the last one?—A. Yes.

Q. And it took over four months in 1916 election?—A. I think that is correct.

Q. And according to the general election law a candidate has to file his notice 60 days before election, under the Australian ballot law passed by the legislature?—A. I am very strongly in favor of it.

Q. That would take six or eight months to hold an election?—A. It would not.

Q. How quick could you hold it?—A. It could be done in about 90 days, but it would have taken a little longer to get the returns in, but that is no excuse for violation of the election laws; that it takes time is not a reason for violation of the law.

Q. What law has been violated?—A. The United States election law for the election of Delegate to Congress for the Territory of Alaska.

Q. Do you think that all the provisions of the general election law should have been complied with?—A. Absolutely.

Q. Well, I don't think so.—A. They were not.

The act of Congress approved August 24, 1912, which I drew myself, Mr. Grigsby, and which was passed by Congress, provides that when a special election is held it shall be governed in every respect by the laws passed by Congress governing such election; and that was meant to govern special elections.

Q. Yes, sir.—A. When there is an election to be held, it is to be governed by the laws, when the election of June 3, 1919 [incomplete].

Q. And it was governed by the laws.—A. It was not; it was governed by the election law which you drew and which violated all the election laws [incomplete].

Q. You mean as to the notice?—A. As to people having notice to vote.

Q. But the conduct of the election on election day was according to the election law.—A. I doubt it very much, although I don't know much about it.

JAMES WICKERSHAM.

Subscribed and sworn to before me this 11th day of October, 1919.

WILL H. WINSTON,  
*Notary Public.*

DEPOSITION OF E. C. AUSTIN.

Hearing reopened at 7.30 p. m., October 11, 1919.

E. C. AUSTIN called and sworn.

By Attorney GRIGSBY:

Q. State your full name?—A. E. C. Austin.

Q. Where do you live, Mr. Austin?—A. I live in Ketchikan.

Q. How long have you resided in Ketchikan?—A. Well I have been a resident here 21 years.

Q. Were you one of the judges of election at the last Delegate election, in 1918?—A. I was in the Charcoal Point precinct.

Q. Do you live in the Charcoal Point precinct?—A. Yes, sir.

Q. You don't live in Ketchikan?—A. Not proper; no.

Q. Who else were the judges down there?—A. Mr. Heath, E. A. Heath and Mrs. Sam Rickard.

Q. Do you remember the matter of adopting a rule down there with reference to receiving votes of people were not residents of the Charcoal Point precinct?—A. Yes, sir; the day of election.

Q. Was the rule adopted?—A. Well, the judges talked the matter over, read over the law that was published on the election books, the register, and we decided that inasmuch as there were two laws that affected the situation, or rather they conflicted, we made up our minds that we would have to abide by one or the other, couldn't go haphazard in the matter and the judges canvassed the thing over among themselves and decided to stand on the law that allowed a person to vote if he had been a resident in Alaska a year and 30 days in the division.

Q. And a person could vote in whatever precinct he was in, in his division?—

A. So long as he registered from the precinct he belonged in, we allowed him the right to vote, and upon that basis allowed voters to vote.

Q. As you were acting as judge of election, did you notice any people voting at Charcoal Point who were not residents of Charcoal Point precinct?—A. Yes.

Q. Could you judge from your knowledge of them whether or not they were all of one political complexion, or both?—A. They were of both political complexions; that is, some of them; I suppose they voted both ways; I didn't look at their ballots, of course, then I knew how they felt about the matter. Some of them voted for Mr. Sulzer and some of them voted for Mr. Wickersham.

Q. Otherwise they were known to you as Wickersham or Sulzer supporters?—A. Yes.



Q. And there was no challenging on that ground?—A. Not on that ground.

Q. Because a person hadn't lived in the precinct 30 days immediately prior to the election?—A. No; no challenging on that ground.

Q. Do you remember the 1916 election, Mr. Austin?—A. 1916 election; yes; three years ago.

Q. You took an active part in that election as a citizen?—A. I did.

Q. Do you know whether or not that point was raised against any voter at Charcoal Point or Ketchikan in 1916?—A. No; I was judge of election in the 1916 election.

Q. You state that in the 1916 election the Territorial law permitting a man to vote in any precinct in his division was followed?—A. It was at Charcoal Point precinct.

Q. And what was your understanding about it having been followed elsewhere?—A. After that election I voted in Juneau, myself, at the spring election for a member of the legislature. I voted in Juneau; I happened to be in Juneau on election day and I registered from Ketchikan. No question was raised then.

Q. In the 1916 election did you ever hear of that question being raised anywhere?—A. No; I did not.

Q. Mr. Austin, what is your politics?—A. I am a Democrat.

Q. How long have you been a Democrat?—A. All my life.

Q. Do you remember the Delegate campaign in 1914?—A. I do.

Q. Did you take any part in that campaign?—A. I did.

Q. Just state what activity you displayed in that campaign, prior to the campaign, did you take any part in any convention?—A. Yes.

Q. What convention?—A. Democratic convention held at Valdez.

Q. What did you have to do with that convention; what office did you hold?—A. I was elected from this division as one of the delegates to the Territorial Convention held at Valdez, and I attended the convention. I carried the proxy with me for the delegates from the first division; nobody else attended but me from this division.

Q. Who was the chairman of that convention?—A. The temporary chairman was John Frame.

Q. Permanent chairman?—A. The permanent chairman was myself.

Q. And you adopted a platform at that convention?—A. We did.

Q. Did you nominate a candidate for Delegate to Congress?—A. We did.

Q. Who was the candidate?—A. Judge Wickersham.

Q. The contestant in this contest?—A. Yes.

Q. After that nomination and before the election, did you have any conversation with James Wickersham with reference to whether or not he stood upon the platform that you had adopted at that convention?—A. Yes.

Q. Where was that conversation?—A. Here in Ketchikan.

Q. About what time?—A. Well, I don't know as I can give the date; I know we held a rally here and the judge spoke here in Ketchikan; spoke in the campaign.

Q. Did you ever talk with him prior to the rally?—A. Yes.

Q. Will you state what the conversation was?—A. Well, I had a conversation the morning before the meeting was held, with Judge Wickersham, and I asked him if he had seen a copy of the platform that we had adopted and he said he had, and I asked him how he stood on that platform, whether he was satisfied with the platform and was willing to run on it, and he said he was entirely pleased with it; that it suited him as well as any platform he could have written himself. And we talked the matter over for probably 15 or 20 minutes. That conversation occurred on Mission Street. We met by appointment in the Revilla Hotel and walked down Mission Street and back and talked the matter over, and it was my purpose, at least, to find out just how the judge stood; the committee didn't know. I had made the nomination, and the rest of the committee had notified me that before the campaign was opened to have a talk with the judge and see how he liked the platform and whether he would stand on that platform.

Q. Did you have a conversation with him with regard to how he liked the platform?—A. I did.

Q. In that conversation did you have any talk with reference to whether or not he considered himself a Democrat?—A. Yes.

Q. What, if anything, did he say in that regard?—A. He said he would stand squarely on the platform. I asked him what attitude he would take in his speech, and I wanted to know what he would say in his speech, and he

said he would stand squarely on that platform, and he acknowledged himself—he said he was a Progressive Democrat.

Q. What was your object in wanting to know that before the rally?—A. Well, it was very obvious what the reason was; we wanted to know because we had nominated him without his knowing what the platform was. We hadn't been advised; we never heard from the judge just how satisfied he was with the platform, and we wanted to know how it pleased him and what his attitude would be, and that was the reason for my conversation with him.

Q. Was that conversation the day before the meeting?—A. Morning before the evening meeting.

Q. You had a meeting that night?—A. We had it at the Red Men's Hall.

Q. Were you on the stage?—A. I was.

Q. Did Judge Wickersham speak?—A. He did.

Q. What did he say, if anything, with respect to his being a Democrat?—A. He read over the platform to the audience and commented on each plank of it, and as he read it over, plank by plank, he said that he stood squarely on each plank of that platform, and when he reached the plank with regard to Woodrow Wilson he read that over and commented on it and said that it suited him to a T and that he was a Wilson Democrat and supporter of all the principles that Wilson had announced in his politics for Alaska, and that he was pleased the administration had taken that broad view of Alaska and Alaskan legislation. I can't repeat or begin to repeat the exact words, but that was the sentiment that the judge expressed at the meeting.

Q. Did he say in so many words that he was a Wilson Democrat?—A. He said Progressive Democrat.

Q. Wilson Progressive Democrat?—A. Yes, sir.

Q. I will show you this paper Mr. Austin and ask is that the platform you refer to?—A. That is the platform adopted at Valdez by the Progressive Democratic convention held on July 30, 1914.

Q. And this is the same platform he had there that night, the planks of which he read?—A. Yes; the platform he read over to the audience, that was used as a campaign document and was sent out all over the Territory.

Q. Was this one plank read to the audience: "That we indorse the administration of President Wilson and hereby express our extreme gratification for his interest in the enactment of legislation for the relief of Alaska, and our appreciation of his valuable assistance to our Delegate in his faithful work for Alaska's best interests."—A. Yes; he read that plank.

Q. And did he state he stood on that plank?—A. He did.

Q. Now, you say the platform was circulated generally throughout the Territory, copies like this?—A. Yes.

Q. Did you ever hear or read, during that campaign, of James Wickersham repudiating that platform?—A. I did not, at no time.

Q. You were in fact virtually the Wickersham campaign manager in this vicinity, weren't you, Mr. Austin?—A. I can't assume anything like that; I was an active worker for Judge Wickersham, generally an active worker. I was on the committee from the first division; that is, chairman of the committee from the first division and a member of the Territorial Committee of the Progressive Democratic Party; therefore, of course, a great many matters relating to the campaign were referred to me for action.

Q. Do you remember this quotation from the Fairbanks Citizen, in that platform, under the picture of James Wickersham: "There is no other man in the Territory who is in as good a position to help Alaska in Congress as is Mr. Wickersham, for that reason the Democrats would have no chance to replace him with any other man and his becoming a Democrat gives that party in Alaska its only chance to elect a Delegate to Congress." Fairbanks Citizen, March 9, 1914.—A. Yes; that was read over there.

Q. Now, your convention was in July?—A. Yes.

Q. At the time you nominated Mr. Wickersham for the candidate for Delegate to Congress, had you received any information as to his claiming to be a Democrat?—A. No, sir.

Q. You had not?—A. I had not.

Q. You hadn't read that Fairbanks paper?—A. No; at that time, that was printed after the convention was held, and, of course, that was inserted because it was thought good campaign matter.

Q. Was this printed here? [Indicating the platform.]—A. No; printed in Valdez.

Q. While you were there?—A. It was sent to me from Valdez.

Q. And did you afterwards furnish Judge Wickersham with any copies of this, Mr. Austin?—A. I did.

Q. State the circumstances?—A. I sent some copies to Judge Wickersham to Washington, D. C., as I remember it.

Q. How did you come to send them to him?—A. I think he wrote me asking to have copies of it if I had them and I sent him what I had. I only had a few copies left and I thought I could get them from Heath, he printed some in his paper, but they were out of print, but I sent the judge what copies I had left.

Q. And did he state, in his letter, in which he wrote for copies, what he wanted them for?—A. No.

Q. Have you the letter yet?—A. I think I have.

Q. You haven't it with you?—A. No, sir.

Cross-examination by Judge WICKERSHAM:

Q. Who was the Democratic candidate in 1914 for Delegate to Congress?—

A. I think Judge Bunnell was nominated at the convention held by the Democrats.

Q. Well, he was the regular Democratic candidate?—A. That is what they considered him.

Q. And was defeated? I defeated him.—A. Yes, sir.

Q. And he was thereupon appointed Judge by Woodrow Wilson?—A. Yes, sir.

Q. And was recognized as the Democratic candidate in this Territory by that appointment?—A. I think he was.

Q. Now, don't you know, as a matter of fact, prior to the holding of this convention, which you say was held at Valdez, that I had already been nominated for Delegate to Congress by a petition of my friends at Fairbanks and other places, under a statute we have in this Territory permitting that to be done?—A. I don't know that.

Q. Don't you know that at that time I was a supporter of Mr. Roosevelt?—A. I didn't know that.

Q. You don't know that I had been a supporter of Mr. Roosevelt for many years?—A. I think probably you have.

Q. Isn't that notorious that I had been and was a Progressive along with Mr. Roosevelt, giving him my earnest support at all times, is that right?—A. I don't know.

Q. Who went from Juneau to that convention you talked about?—A. Nobody.

Q. Didn't Emery Valentine go?—A. No; no, sir.

Q. Now, you say somebody notified me of my nomination. Who notified me except this conversation you say you had with me?—A. As I remember it, I wouldn't state this positively, but my recollection is that a notification was sent from the Secretary of the Territorial committee, Mr. Joseph Derringer, of Valdez.

Q. Did you ever see any acknowledgment that he got from the notification from me?—A. No.

Q. Never was any?—A. I didn't see any, but I was informed that they had written you and had sent a copy of the platform.

Q. But so far as you know there never was any acknowledgment of it in any way?—A. No.

Q. But at that time I was known as a Roosevelt Progressive? Is that your impression of the situation?—A. My recollection is that you were a supporter of Mr. Roosevelt, generally speaking, at one time.

Q. You gentlemen held a convention, during which you gave me your indorsement, and I said to you I accept and I let it go at that.—A. Well, you said to me when you came that you would stand on that platform, of course, not prior to that time—the only time I had any conversation in regard to it was the morning before we had the meeting here that evening; you remember the talk.

Q. I do. I expressed very strong admiration for Mr. Wilson?—A. Yes, sir.

Q. Because of the efforts he was making to help Alaska?—A. Yes, sir.

Q. Well all felt that way about it?—A. I did.

Q. Everybody did?—A. Everybody I could interest.

Q. I did? A. You did.

Q. I thought we were going to get a great deal of good out of Mr. Wilson and his administration in Alaska, and being a Progressive, and this being a Progressive convention, I felt it was all along the right line of helping Alaska.

Now, do you know that in 1912, when I was elected, I was elected as a Progressive?—A. Yes; I think you were.

Q. Progressive Republican?—A. Yes.

Q. Do you know at that time I received a very strong telegram from Mr. Roosevelt, by telegraph?—A. I did not know.

Q. And from the national Progressive committee? You didn't know that?—A. No.

Q. You think I told you I was a Democrat?—A. Yes; a Progressive Democrat—a Wilson Democrat.

Q. Didn't I just simply say that I was a Progressive?—A. I am positive about that.

Q. Are you; why are you positive about that?—A. Because it was certainly what I wanted to know.

Q. It was just a private conversation between you and me?—A. Yes, sir.

Q. And you are strengthened in that belief by the fact that I had been a Progressive in support of Mr. Roosevelt?—A. No; I wasn't strengthened by that at all; I knew you had been a Progressive; claimed yourself as one.

Q. And you knew at that time that there was a regular Democratic candidate in this Territory?—A. Yes; I did know it; certainly I did.

Q. And you have been very much opposed to me ever since?—A. No.

Q. You supported me in 1916 and 1918?—A. No; I didn't support you.

Q. In the 1918 election you were one of the judges at Charcoal Point?—A. Yes, sir.

Q. And you permitted everybody to vote there generally who said they had been in the division 30 days?—A. Yes, sir.

Q. Well, now, do you know how they voted there?—A. I don't know how they voted; I didn't look at their ballots.

Q. So the people who came to vote there, you judge, were my friends and Mr. Sulzer's friends?—A. Yes, sir.

Q. Do you think Mr. Sulzer voted for me?—A. I am satisfied he didn't.

Q. You said he voted, Mr. Sulzer?—A. I remember seeing him; I think he did; I don't know.

Q. Don't you know a great many people came here and tried to vote in Ketchikan on that day and were refused for some reason, and then went out to Charcoal Point and voted?—A. No; I didn't know that.

Q. Didn't you know Mr. Sulzer attempted to vote here?—A. I didn't know that until after the election; I am sure of that; I didn't know at that time.

Q. You know now a great many other people did that?—A. I heard so.

Q. Whenever they couldn't get their votes in here they went out to Charcoal Point?—A. I have heard since; the judges had no way of knowing; they brought these people in there, and they voted if they came within the qualifications; and the practice was followed that they registered from the precinct they lived in, and we allowed them to vote.

Q. Isn't it true that on the election books and transfers that you had there there were positive instructions from the governor stating the qualifications of voters?—A. No, sir.

Q. Isn't it true that it was on all printed matter that was used and in every polling places in this Territory, the same instructions with reference to the qualifications of voters, from the governor?—A. Not from the governor; his name wasn't signed to it; but there was a synopsis of the voting laws on the election material; that is, one law said a voter would be qualified if he had been a resident a year in the Territory and 30 days in the precinct prior to election he would be eligible to vote, and the other law said 1 year in the Territory and 30 days in the division that they were eligible to vote.

Q. Didn't you know at that time that Mr. Grigsby had given an opinion to the governor that a person was not eligible to vote unless he had been 30 days in the precinct?—A. I didn't know; there was nothing on any election material that indicated anything of that kind.

Q. So you let everybody vote who had been in the division 30 days?—A. We couldn't observe both laws; we didn't want to disfranchise anybody.

Q. Do you remember George Nix from Hydaburg?—A. I remember there was a man by that name.

Q. An Indian?—A. I think so.

Q. Do you remember whether he was challenged?—A. By Mr. Althouse, I think.

Q. And swore in his vote?—A. Yes, sir.

Q. And you administered the oath to him?—A. I did.

Q. And he swore that he had lived in that precinct 30 days prior to election?—A. Charcoal Point?

Q. Yes.—A. I don't remember.

Q. Do you know the form of the oath you administered to everyone who was challenged?—A. Yes, sir.

Q. You knew he hadn't been a resident of Charcoal Point 30 days?—A. He registered from Sulzer.

Q. Why did you let him commit perjury?—A. I wasn't there to protect him; he ought to know what he was doing.

Q. He was an Indian?—A. Yes.

Q. From Hydaburg?—A. I don't know, Hydaburg or Sulzer—somewhere on the west coast. I read over the affidavit to him—the challenge before he signed it—and he signed it.

Q. And swore to it before you?—A. Yes.

Q. And you at that time knew he wasn't a resident of that precinct?—A. Yes; certainly I did.

Q. And you say that I told you I was a Democrat?—A. Yes.

Q. Were there any other people who were challenged and took the oath that day except George Nix?—A. I think there was; I am not positive about it.

Q. Can't you remember any one of them? Did Van Mavern vote there that day and register from Juneau?—A. Yes.

Q. He wasn't challenged?—A. No.

Q. Did young Heath vote?—A. Which one.

Q. Mention the names of those boys.—A. One of them is Frank, one of them is Bert.

Q. It is Bert; did Bert vote there?—A. I couldn't say whether he did or not.

Q. His father says he did?—A. Possibly he did, more than likely he did; I don't remember.

Q. You knew he had just come from British Columbia, didn't you?—A. No; I didn't.

Q. You didn't know that?—A. No; I didn't know he had been in British Columbia.

Q. You knew he had been gone for a long time?—A. I knew he hadn't been here for some time; yes.

By Attorney GRIGSBY:

Q. Mr. Austin, the Democratic convention of which you were chairman, you and the rest of the members of the convention considered that the regular branch of the party?—A. We considered it was the Democratic convention and called it that—the Progressive Democratic convention.

Q. You claimed to be the real Democrats?—A. Yes; claimed to be the real Democrats.

Q. And if the administration afterwards recognized Mr. Bunnell as representing the regular branch of the party, that wasn't your fault?—A. No; not at all. We tried hard enough to beat it.

E. C. AUSTIN.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

#### DEPOSITION OF MARK WILLIAMS.

Hearings continued October 13, 1919. 3.30 p. m.

MARK WILLIAMS called and sworn.

By Attorney GRIGSBY:

Q. What is your name?—A. Mark Williams.

Q. Where do you live, Mark?—A. Here in Ketchikan.

Q. Did you ever live in Saxman?—A. Yes; I live at Saxman.

Q. Do you live at Saxman now?—A. Yes; now.

Q. Your home is in Saxman?—A. Yes.

Q. That is how far from Ketchikan?—A. About 8 miles.

Q. Did you live in Saxman last November at the time of the election?—A. Yes; I live in Saxman last November.

Q. Did you vote at the election last November?—A. Yes; I vote last November, sometime last year.



Q. Where did you vote?—A. Up at Charcoal Point.

Q. And for whom did you vote for Delegate to Congress?—A. I vote for Wickersham.

Q. You are a native?—A. Yes, sir.

Q. Thlinket?—A. Yes, sir.

Q. You live in the Indian town of Saxman?—A. Yes, sir.

Q. Do you know what office Mr. Wickersham was running for?—A. Only I think Wickersham all right, white fellows talk about it on the street, when I pass I hear, listen, once in a while.

Q. Who did you hear talking about it?—A. White fellows.

Q. Who? What is the name of the white man?—A. I don't ask their name; I just heard that.

Q. Did any white man tell you to go and vote?—A. I see most Indians go, so I had to go.

Q. Did any white man tell you, for you to go and vote?—A. Nobody, but I see Indians go; see.

Cross-examination by Judge WICKERSHAM:

Q. Where were you born, Mark?—A. Kasaan, my idea I belong to Kasaan.

Q. How did you come to be in Charcoal Point on that day?—A. The time I was in here I should stay here about 30 days before I come in here been all right, and I come from Saxman, and it is different, so they sent me up Charcoal Point.

Q. Who sent you up there?—A. Those fellows sitting in this house; they send me up.

Q. Who was it?—A. I don't know the name.

Q. Do you remember whether it was Mr. Sharpe?—A. He was in here at that time; I never seen him.

Q. Don't you know who it was sent you up there?—A. Well, they all say; they told me, I can't make sign, put my name, have to go to Charcoal Point.

Q. Was it the election officers here who told you to go to Charcoal Point?—A. They told me.

Q. Who told you?—A. I understand they told me to go up there, and I don't know what place, where is Charcoal Point, so one fellow, Charlie Starish, he took me up there and show me place.

Q. Do you know Mr. Deppe?—A. Mr. Deppe?

Q. Yes; cannery man here?—A. I don't know that fellow.

Q. And do you know the deputy United States marshal here?—A. I know.

Q. Sharpe?—A. Sharpe, I know him.

Q. Was he here, and did he tell you to go up there?—A. He never says go.

Q. Who did you go up there with?—A. Indians.

Q. Charlie Starish?—A. Charlie Starish.

Q. No white man go with you?—A. No, sir.

Q. Just you and Charlie Starish; you go up there?—A. Yes.

Q. Do you know who the white man was here who told you to go there?—A. One fellow told me, they all say go up there, only place. I asked Judge Mahoney why is that can't make no sign in here. He said, "I can't help it; you have to go to Charcoal Point."

Q. Did he take you up there in his automobile?—A. No; just walk.

Q. Judge Mahoney told you to go up there?—A. I ask him, "How is it I can't make no sign here?" He said, "I can't help."

Q. And he told you you would have to go up to Charcoal Point?—A. They call place Charcoal Point.

Q. But Judge Mahoney told you to go over there?—A. Other fellows was sitting along table; six men sitting here, I think.

Q. Did you ever live up to Charcoal Point?—A. I never live, see? Only fish from other place. I don't have to get in that place any time.

Q. Did you ever live in Ward's Cove?—A. We sell our fish there. This spring only time seen that.

Q. How long had you been down to Saxman before election? Do you remember the day of election, the day you came here to vote?—A. They never gave me paper; won't give me paper; has not tell just what they did; but they keep it themselves after signing.

Q. They wouldn't let you vote?—A. They wouldn't let me vote; sent me up Charcoal Point.

Q. Judge Mahoney told you to go up?—A. He didn't say; he was standing on the front; he didn't pay attention.

Q. And you asked why you couldn't sign here?—A. Yes.

Q. What did Judge Mahoney tell you?—A. He told "I can't help it," he says.

Q. Had you talked with Judge Mahoney before you came here to vote?—A. No.

Q. Had you talked with Mr. Sharpe before you came here that day?—A. No.

Q. Who did you talk to; anybody? —A. I just walk in here; saw everybody come in here, and so come in and sat on bench; crowd in here.

Q. Now, have you talked to Mr. Grigsby—this man sitting here—to-day, about this matter?—A. Yes.

Q. Where did you talk to him?—A. Up in the Stedman Hotel.

Q. In his room?—A. Yes.

Q. Who told you to go there?—A. A man from the court.

Q. Sharpe?—A. Another fellow; got brown suit on; I don't know name is.

Q. That is the man; Hoffmeier, guard at the courthouse?—A. Yes, sir.

Q. What did he say to you?—A. Well, I never ask him and never tell what to do; took me down, show me this man, and he told me. We sat in the Stedman Hotel quite a while, and I wait, and after he came around and took up to his room.

Q. And what happened there?—A. Nothing happened; only looks for papers with name on it, that is all.

Q. Who fixed your ticket down to Charcoal Point?—A. I don't know man there.

Q. A man with white hair?—A. I never take a look, anyhow.

Q. Do you know Ed Austin?—A. I don't know that fellow.

Q. Ed Austin, barkeeper at the Stedman Hotel?—A. I never.

Attorney COSGROVE. You know there is no barkeeper there now.

By Judge WICKERSHAM:

Q. Now, you say when you came in here, in this room, in Ketchikan, to vote on November 5 last there were six men sitting here around the table?—A. I see a bunch around the table.

Q. Who were those men?—A. I don't know those men that time.

Q. You don't know Mr. Hunt?—A. I know Mr. Hunt was sitting right-end side, end table; I suppose chief man put name down.

Q. Don't you know Charlie Deppe?—A. No, sir.

Q. Ira King; didn't know him?—A. I never did know those fellows; I never make signs before then.

Q. Have you got a house in Saxman?—A. Yes, sir.

Q. How long have you lived there?—A. I have had a house 27 years down there.

Subscribed and sworn to before me this 13th day of October, 1919.

\_\_\_\_\_  
Notary Public.

#### DEPOSITION OF J. W. BELL.

Hearings continued 3 p. m., October 15, 1919.

J. W. BELL, called and sworn.

By Attorney GRIGSBY:

Q. State your full name.—A. J. W. Bell.

Q. What official position do you occupy, if any?—A. Clerk of the United States District Court for the District of Alaska, Division No. 1.

Q. Your residence is where?—A. Juneau.

Q. As clerk of the court is it your duty to canvass the returns of the primary election?—A. Yes, sir.

Q. When was the last primary election?—A. On April 30, 1918.

Q. Have you the register books with you of that election?—A. Yes, sir.

Q. And do you know, Mr. Bell, how many candidates for the office of Delegate to Congress there were for the Democratic nomination?—A. Two.

Q. Who were they?—A. William Maloney and Charles A. Sulzer.

Q. And how many Republicans for the nomination who had filed?—A. One.

Q. Who was that?—A. James Wickersham.

Q. Now, do you know whether or not any Republicans called for Democratic tickets at the primary for the Democratic election and voted at the Demo-

cratic primary at Juneau?—A. There were several I supposed were Republicans that asked for Democratic ballots.

Q. Can you name any of them from your records? And I will also ask you this question: I will ask you to read from your records the names of those whom you understood to be and who had the reputation of being Wickersham supporters.

Q. Does the book show the total vote in the precinct?—A. Yes, sir.

Q. What is the book you are referring to now?—A. This book is the duplicate primary election register and tally book for Precinct No. 1, Juneau.

Q. Does that contain a list of the voters in the Democratic primary?—A. It contains a list of 377 people who asked for ballots.

Q. In the Democratic primary?—A. Democratic, Republican, and Socialists ballots if they asked for them.

Q. Does the book show how many voters asked for Democratic ballots?—A. Yes, sir.

Q. How many?—A. I will have to count them.

Q. Does it show the total?—A. Not separately; no.

Q. All right, I will have to have it I guess?—A. Yes, it does. No, it doesn't either, because it shows the result from the gross total.

Q. Isn't there a certificate of the result there?—A. Yes, sir.

Q. Does the certificate of result show how many voters Charles A. Sulzer received?—A. Yes.

Q. Does it show how many votes William Maloney received?—A. Yes.

Q. How many did Charles A. Sulzer receive?—A. Two hundred and six.

Q. How many did William Maloney receive?—A. One hundred and sixteen.

Q. And how many did James Wickersham receive?—A. Thirty-three.

Q. That is precinct No. what?—A. Precinct No. 1.

Q. Is that the precinct where the voting place was in the Firemans'—A. City hall, yes.

Q. Now, will you refer to that book and refreshing your memory therefrom, name persons whom you understand to be Wickersham supporters and Republicans who voted in the Democratic primary?—A. Capt. J. T. Martin, J. T. Hunt, Mrs. W. H. Case, Mrs J. Valentine.

Q. Is Mrs. J. Valentine the wife of Emery Valentine?—A. I think so; I think her name is Josephine Valentine.

Q. Is his name there?—A. I haven't got down to it. That is all in that book.

Q. Now, Mr. Bell, you don't know, do you, the politics of all people whose names appear there?—A. No, sir.

Q. Those you mentioned are those well-known to you as being partisan supporters of Mr. Wickersham?—A. I have always considered them as that.

Q. You don't say there are no others in the book that were Wickersham supporters?—A. I can't say as to that.

Q. State from your general knowledge whether or not it was openly advocated in Juneau that Wickersham supporters should go into the Democratic primaries and vote for William Maloney, was that advocated by anybody?—A. That was advocated generally by the supporters of Mr. Wickersham.

Q. And do you know whether or not Mrs. Hatcher (Thatcher) so advocated it on the stump there?—A. I believe she did.

Q. And was it not common knowledge that both Democratic and Republican Wickersham supporters did vote in the Democratic primaries in large numbers?

Judge WICKERSHAM. Well, I object, and he has gone over the record with a very great deal of care and I think he should point them out.

Attorney GRIGSBY. Answer the question.

A. What was it?

Q. Was it common knowledge that Wickersham supporters, Democrats and Republicans, did vote in the Democratic primary?—A. Yes, sir.

Q. That was well known, was it?—A. Yes, sir.

Q. What was the common understanding as to the purpose for which William Maloney was running? That is to say, whether or not he was being supported by people who intended to vote for him, or was there an effort being made by the Wickersham supporters to nominate a weak candidate in the Democratic primaries?—A. That was my understanding of his object in running.

Q. And that was, too, common report in Juneau at that time?—A. Yes, sir.

Q. Did you find Emery Valentine's name there?—A. I have two more books, second and third precincts in Juneau.

Q. In which would he vote?—A. I think the second precinct.

Q. Just look to see if you can find Emery Valentine's name in the second precinct. I just want you to look for Emery Valentine.—A. Yes. Yes, I have found Mr. Valentine's name.

Q. Emery Valentine?—A. Yes, sir.

Q. At that time who was mayor of Juneau?—A. Mr. Valentine.

Q. Emery Valentine?—A. Yes, sir.

Q. Do you know whether or not he was a Wickersham supporter?—A. To the best of my knowledge he was.

Q. Don't you know?—A. Yes; he always was. I never heard him say he was not.

Q. Well, who was Wickersham's campaign manager in Juneau understood to be?—A. I always understood that Emery Valentine was his campaign manager.

Q. And has been for years?—A. Yes.

Q. And probably the most prominent Wickersham supporter in Juneau, isn't he?—A. Yes, sir.

Q. And what is his politics supposed to be?—A. Republican.

Q. Now, in this precinct No. 2, how many votes did Charles A. Sulzer get?—A. 114.

Q. How many votes did William Maloney get?—A. 76.

Q. How many did Mr. Wickersham receive?—A. 15.

Q. And precinct No. 3, how many votes did Mr. Sulzer receive?—A. 39.

Q. How many did Mr. Maloney receive?—A. 47.

Q. And how many did Mr. Wickersham receive?—A. 7.

Q. Now, precinct No. 3—is precinct No. 3 at the general election the Wickersham precinct? Didn't Mr. Wickersham carry No. 3 last general election?—A. Yes, sir.

Q. And has it not always been a Wickersham stronghold?—A. Yes, sir.

Q. Can you state just generally whether Wickersham supporter, either Republicans or Democrats, voted at the Democratic primary in precincts Nos. 2 and 3? Don't name them.—A. Yes.

Q. State whether or not, Mr. Bell, from your knowledge of the situation as it was in Juneau at the time of the primary election, the fact that a man voted at the Democratic primary was any evidence that he was a Democrat?—A. No, sir.

Q. Or evidence that he would support Mr. Sulzer at the general election in the fall?—A. No, sir.

Q. Was that or was that not the situation throughout Alaska, as you understood?—A. Practically it was; yes.

Q. And you were pretty well acquainted with the political situation at that time?—A. Yes, sir.

Q. Do you know Gus Gillis?—A. Yes, sir.

Q. An attempt was made to show that Gus Gillis, of Juneau, and his wife voted at Charcoal Point.

Judge WICKERSHAM. I think, Mr. Grigsby, I can clear that up by saying that was a mistake. I don't claim it; there was another Gillis; I was misinformed. There is another Gus Gillis, and my informant got matters mixed up.

#### Cross-examination by Judge WICKERSHAM:

Q. Mr. Bell, you are clerk of the district court, appointed by Judge Jennings?—A. Yes.

Q. And Judge Mahoney, of Ketchikan, is the deputy clerk under you?—A. Yes, sir.

Q. And you are a Democrat?—A. Yes, sir.

Q. And you supported the Democratic ticket, didn't you, and Mr. Sulzer?—A. Yes, sir.

Q. And you are doing what you can to assist Mr. Grigsby in this contest?—A. Yes, sir.

Q. At whose request did you bring all those bundles of records down from Juneau?—A. Mr. Grigsby's.

Q. Do you know how many votes were cast in precinct No. 1 at the regular election for Delegate to Congress on November 5, 1918?—A. I believe so.

Q. As a matter of fact this is the precinct in Juneau in which Mr. Sulzer had a majority over me of something like 50 votes only?—A. In the general election?

Q. Yes; November 5, 1918?—A. Something like 50 or 60.

Q. Now, in the first precinct you say a man by the name of Hunt voted the Democratic ticket?—A. Yes, sir.

Q. At the primary election of May 30, 1918?—A. April 30.

Q. April 30, 1918? Wasn't Hunt the adjutant general of the Territory at that time?—A. I believe he was.

Q. Appointed by the Democratic governor?—A. Yes, sir.

Q. And wasn't it understood he was a Democrat?—A. It was at the time he was appointed.

Q. And wasn't it always so understood?—A. Yes; always understood up to shortly prior to the primaries.

Q. And wasn't it so understood until Gov. Riggs got in and removed him?—A. I don't believe so; as a matter of fact, there was a general understanding the other way.

Q. Did Mr. Hunt vote at the election of November 5, 1918, at Juneau?—A. I can't say; I haven't the records with me.

Q. Do you know whether or not he voted for Mr. Sulzer?—A. I do not; I don't know he was there. I don't remember the date he was removed.

Q. And you don't remember whether he voted for Mr. Sulzer or not?—A. I do not.

Q. Do you know whether Capt. Martin voted for Sulzer on November 5, 1918?—A. No sir; I do not.

Q. Well, do you know whether Mrs. W. H. Case voted for Sulzer November 5, 1918?—A. No, sir; I do not.

Q. Do you know whether Mrs. Valentine voted for Sulzer at that election?—A. No, sir; I do not; never talked to her about it.

Q. Do you know whether Mr. Valentine voted for Sulzer at that election?—A. No, sir; I do not.

Q. Somebody just told you they were friends of Mr. Wickersham and that is about all you know about it?—A. No, sir; it is well known that they were your supporters—Mr. Valentine, Mrs. Valentine, Mr. Case, and Mrs. Case and family.

Q. Do you know whether you ever met Mrs. Case?—A. I don't know; I never did.

Q. But you don't know how they voted?—A. I have an idea Mrs. Case voted for you, because Mr. Case was betting money on you.

Q. And you think that good evidence that Mrs. Case voted for me?—A. Pretty certain evidence in some cases.

Q. Satisfies you?—A. Very easily.

Q. And you testified on that sort of evidence?—A. I always understood them to be very strong Republicans.

Q. And from that assumption and from the fact that he was betting on me you concluded she voted for me?—A. Yes, sir.

Q. Now, was Capt. Martin betting on me?—A. I could not say.

Q. Did you bet on the election?—A. No, sir.

Q. What did Capt. Martin do to make you think he voted for me in the election of November 5, 1918?—A. He always said he did.

Q. He told you so?—A. Yes, sir.

Q. But Mrs. Valentine, you never talked to her about it?—A. No, sir.

Q. Don't you know whether she voted for Sulzer or not?—A. No, sir.

Q. What about Emery Valentine?—A. He always told me he supported you; I don't know whether in this particular election. I always understood him to be a strong supporter of yours.

Q. But on November 5, 1918, you don't know whether he voted for me or not?—A. No, sir; I do not.

Q. It has been generally reported around, though, that he was a supporter of mine?—A. Yes, sir.

Q. And on that sort of information, and from what you heard him say, you think he was a supporter of mine?—A. Yes, sir.

Q. And you think that information is good evidence of the fact, don't you?—A. Yes, sir.

Q. There were 355 votes cast in precinct No. 1, according to your statement, in the primary election on April 30, 1918, and you have pointed out of that number 4 you think are supporters of mine, and who voted the Democratic ticket?—A. In the first precinct.

Q. You haven't gone over the other two precincts to figure out how many voted the Democratic ticket who you think are supporters of mine?—A. No; I have not.

Q. Now, I had no opposition in that primary election?—A. I believe not.

Q. I was the unanimous choice of the Republicans in the primary election for Delegate to Congress in 1918, was I not?



Attorney GRIGSBY. I object to that as not proper cross-examination and intended to show the politics of the contestant for the House of Representatives to establish the fact he was a Republican.

WITNESS. Yes, sir.

By Judge WICKERSHAM:

Q. There was no other candidate on the Republican ticket at the primary election against me?—A. There were odd votes cast for different men, but there was no one that filed as a Republican, that was printed on the official ballot.

Q. My name was the only name under the Republican head printed on the official ballot?—A. Yes, sir.

Q. And there was no fight made against me, so far as you know in the Republican organization for that nomination?—A. Not that I know of.

By Attorney GRIGSBY:

Q. Mr. Bell, you don't want it understood that the four persons whom you have named as Wickersham supporters, who voted at the Democratic primaries, were the only persons who voted in that precinct that were Wickersham supporters?—A. No, sir.

Q. There were, were there not, a great many more?—A. Yes, sir.

Q. Now, you stated that Mr. Wickersham was the unanimous choice of the Republicans in that primary; by that do you mean that there were no Republicans who were opposed to him in Juneau? In other words, is it your understanding that being a Wickershamite is a test of Republicanism?

Judge WICKERSHAM. I object to that on the ground that it is just argument. I object.

Attorney GRIGSBY. Answer the question.

WITNESS. What was it?

(Question read by the stenographer.)

WITNESS. No, sir.

Attorney GRIGSBY. Is there or is there not a large portion of the Republican Party in Alaska which is opposed to Mr. Wickersham politically?

A. There are some; I don't know how many, or what proportion they are.

By Judge WICKERSHAM:

Q. Weren't there some Democrats who were opposed to Mr. Sulzer at that same election?—A. I believe there were a few.

Q. It isn't unanimous either way, is it?—A. Not that I know of.

J. W. BELL.

Subscribed and sworn to before me this 15th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

DEPOSITION OF RUFUS EDENSHOW.

RUFUS EDENSHOW called and sworn.

By Attorney GRIGSBY:

Q. What is your name?—A. Rufus Edenshow.

Q. Edenso?—A. No, sir; Edenshow.

Judge WICKERSHAM. Now, before going any further with this witness, I want to object to the taking of his testimony on the ground that to-morrow, October 16, is Mr. Grigsby's last day for taking testimony under the resolution passed by the House of Representatives, and I only received notice of the taking of this man's deposition to-day. I make the objection on the ground that I am entitled to one day for the purpose of meeting his evidence after to-day, and that it has not given me that time. I object to the taking of his deposition at all. I do not make any objection to the taking of his deposition to-day as distinguished from my general objection.

By Attorney GRIGSBY:

Q. I understand you make no objection to the taking of his deposition to-day instead of to-morrow?—A. No; I do not.

Q. But you make the same objection to-day as you would do to-morrow?—A. I want my objection to stand as if the deposition were taken to-morrow.

By Attorney GRIGSBY (to witness):

Q. What is your full name?—A. Rufus Edenshow.

Q. Where do you live?—A. Hydaburg.

- Q. In this division?—A. Yes, sir.
- Q. Did you vote last year, last November?—A. Yes, sir.
- Q. Where?—A. At Sulzer.
- Q. Is Hydaburg in the Sulzer voting district?—A. Yes, sir.
- Q. How old are you?—A. 30.
- Q. Are you an Alaska Indian?—A. Yes, sir.
- Q. What?—A. Hyda.
- Q. Is Hyda the name of the tribe?—A. Yes, sir.
- Q. Where were you born?—A. In Klinkwan.
- Q. Is that in Alaska?—A. Yes, sir; close to Prince of Wales Island.
- Q. Do you know the other boys from Hydaburg who voted at Sulzer?—A. Yes; I know every one.
- Q. Do you know where they were born?—A. Yes, sir; they were born at Klinkwan and How Kan.
- Q. In Alaska?—A. Yes, sir; in Alaska.
- Q. Now state if you know when the Hyda Indians or their ancestors, fathers and grandfathers and mothers and grandmothers first came to Alaska.—A. Why, as far as I know, even my grandfather didn't remember at what time they came over.
- Q. Was your grandfather a native of Alaska?—A. Yes. He used to claim he was born in Alaska too, and he was old when he died.
- Q. Was your father born in Alaska?—A. Yes, sir.
- Q. And your mother?—A. Yes, sir.
- Q. Were the fathers and mothers of all the Hydaburg boys who voted at Sulzer born in Alaska?—A. Yes, sir.
- Q. Did you register for the draft last fall?—A. Yes, sir; I was registered at Sulzer.
- Q. At Sulzer?—A. Yes, sir.
- Q. Did all the Hydaburg boys within the age limits register?—A. Yes, sir; every one was registered at Sulzer; some of them from Craig.
- Q. Were all those who voted at Sulzer registered for the draft?—A. Yes; all registered.
- Q. Do you know whether or not any of them bought Liberty bonds or not?—A. Yes; everyone bought bonds, second Liberty bonds and third Liberty bonds, and fourth, too.
- Q. Can they all read and write?—A. Yes, sir.
- Q. Who voted at Sulzer?—A. Yes, sir.
- Q. Did other men vote at Craig?—A. I don't remember.
- Q. They are in the habit of voting at Sulzer?—A. Yes, sir.
- Q. And voted there the election of three years ago also?—A. Yes, sir.
- Q. Do you have any tribal relations at Hydaburg?—A. No, sir.
- Q. Do you know that the claim is made that Hydaburg is on an Indian reservation; have you heard that?—A. The superintendent of schools over there used to tell us it wasn't a reservation.
- Q. You can leave there whenever you want to, can't you?—A. Yes, sir; leave there whenever we like to.
- Q. Has any officer of the United States any authority over you any more than over white people?—A. No, sir; only one school superintendent over there.
- Q. And he conducts the school; that is the extent of his authority?—That is all.
- Q. When did you come to Ketchikan this last time?—A. Few days ago.
- Q. You have been in town a few days?—A. Yes.
- Q. What is your business?—A. Fisherman.
- Q. Do you own a boat?—A. No, sir.

By Judge WICKERSHAM:

Q. Mr. Edenshaw, did you telegraph for some of the boys to come over to testify?—A. No, no, no.

Q. You live at Hydaburg?—A. Yes, sir.

Q. So you and all the boys you are talking about lived at Hydaburg at the time of the election, November 5, 1918, last fall, at the time you went over to Sulzer and voted?—A. Yes, sir.

RUFUS EDENSHAW.

Subscribed and sworn to before me this 15th day of October, 1919.

[SEAL.]

WILL H. WINSTON,  
Notary Public.

Attorney GRIGSBY. The signature of Steve Ragan to his deposition taken at Juneau is waived by the contestant.

Judge WICKERSHAM. Yes; I agree to that, assuming, of course, that his testimony is transcribed correctly.

Attorney GRIGSBY. I offer in evidence the various notices to take depositions.

Judge WICKERSHAM. Well, I agree that all notices may be filed without offering them in evidence.

Attorney GRIGSBY. And pleadings?

Judge WICKERSHAM. And pleadings; yes...

Hearings continued at 4 p. m., October 16, 1919.

Attorney COSGROVE. I ask for a postponement of this hearing until 7:30 tonight, due to the failure of the witnesses to present themselves and my inability to look them up.

Attorney SHOUP. I want to enter an objection on behalf of the contestant, James Wickersham, that this notice to take the depositions of the following seven men, Jim Wallace, Walter Frank, Rufus Edenso, Jim Edenso, George Charles, Charles Scott, and Fred Grant, was not served on the contestant until yesterday afternoon, and does not allow one clear day's notice as provided by section 108 of the Revised Statutes of the United States.

Hearing adjourned until 7:30 p. m.

#### DEPOSITION OF WALTER FRANK.

7.30 p. m. above date, hearings continued.

WALTER FRANK called and sworn.

By Attorney COSGROVE:

Q. State your name?—A. Walter Frank.

Attorney SHOUP. I want to renew the objection I made this afternoon to the taking of those depositions on the ground that we haven't had the time allowed under the statutes.

By Attorney COSGROVE:

Q. How old are you?—A. Over 50 years now.

Q. Where do you live?—A. Hydaburg.

Q. How long have you lived there?—A. Pretty near seven years now.

Q. Where did you live before you went to Hydaburg?—A. I was born in Klinkwan.

Q. Where is Klinkwan?—A. Below to Hydaburg.

Q. In Alaska?—A. Yes; and I born in Klinkwan and my mother come Kasaan and went over to Kasaan when 10 years and 10 years in Kasaan and I move back to Hydaburg again as soon as Hydaburg start.

Q. What is your business—what do you work at?—A. I tell you, Mr. Charlie, we live in Klinkwan and we live at How Kan; and one fellow named Mr. Delaws, and he had a store up there, and one fellows name Jim Miller—old Miller—he had a store at Klinkwan, and now every year we work on cannery; that money goes to the store.

Q. You have an interest in that store?—A. No.

Q. What do you do for a living?—A. Work.

Q. What kind of work?—A. All Indians live fishing; fish for the cannery every summer; and one fellow got a store at Klinkwan, and when was getting through fishing that money goes all in the store.

Q. You all own store together?—A. No; one fellow, James Miller—white fellow.

Q. What did you put your money in there for?—A. Because we buy grub.

Q. How did you get your money, working for the cannery and fishing?—A. Fishing.

Q. Do you own your own boat?—A. Yes.

Q. What kind of a boat?—A. Seine skiff.

Q. How big?—A. Thirty-two feet.

Q. Is there an engine in it?—A. No.

Q. You have a fishing crew?—A. Crew; yes.

Q. But you were born in Klinkwan, Alaska?—A. Yes; southeastern Alaska.

Q. Do you know Paul Morrison?—A. Yes.

Q. Where does he live?—A. How Kan.

- Q. Where was he born, do you know?—A. I don't know.
- Q. How long have you known him?—A. Great many years.
- Q. How many years?—A. Great many years, times, but I don't know where he born.
- Q. Do you know how old he is?—A. No.
- Q. Do you know Sidney Carle?—A. Sidney Carle.
- Q. Do you know where he was born?—A. No.
- Q. Where does he live now?—A. He live here now.
- Q. Ketchikan?—A. Ketchikan.
- Q. Is he a Haida?—A. Thlinket.
- Q. Are you a Haida?—A. Yes.
- Q. Do you know Peter Nathan?—A. Yes.
- Q. Is he a Haida?—A. Haida.
- Q. Do you know where he was born?—A. I don't know; somewhere; How Kan.
- Q. Do you know whether he was born in Alaska?—A. Of course, born in Alaska.
- Q. Do you know Ruben Edenshaw?—A. Yes.
- Q. Is he a Haida?—A. Yes.
- Q. Where was he born?—A. Hydaburg. He live.
- Q. Do you know where he was born?—A. No.
- Q. How long have you known him?—A. Good many times; good many years.
- Q. How long do you think—how many years?—A. Well, I don't know.
- Q. How old a man is he?—A. I don't know; I didn't ask him; he will be here pretty soon.
- Q. Do you know Charles Scott?—A. Yes.
- Q. Is he a Haida?—A. Yes.
- Q. And where was he born?—A. I don't know.
- Q. What business is Morrison, Nathan, Edenshaw, Carle, and Scott in, all fishermen?—A. All fishermen.
- Q. And all live at Hydaburg?—A. Yes.
- Q. Are they all young men or old men?—A. Young men.
- Q. Do you know Jack Edenshaw or James Edenshaw?—A. James Edenshaw; yes, he is here now.
- Q. Is he a young man?—A. Yes.
- Q. Haida?—A. Yes.
- Q. Do you know where he was born?—A. I guess Klinkwan, I am not sure.
- Q. Do you know Boyd Nakaptla?—A. Yes.
- Q. Where does he live?—A. Hydaburg.
- Q. Is he a Haida Indian?—A. Yes.
- Q. Do you know where he was born?—A. No.
- Q. How long have you known him?—A. Good many years.
- Q. Right over there?—A. Yes.
- Q. Do you know Luke Frank?—A. Yes.
- Q. Is he any relation to you?—A. No.
- Q. What business is Luke Frank in?—A. Sir.
- Q. How does he make a living?—A. We have got store up Hydaburg.
- Q. You have all Indian boys in the store?—A. Yes.
- Q. You are in it yourself?—A. Yes.
- Q. Are all these boys in it that I have named, Paul Morrison, Sidney Carle, Peter Nathan, Reuben Edenshaw, Chas. Scott, James Eamso (Edenshaw)?—A. I tell you, Charlie, we all work in the cannery, and one fellow got store at How Kan, his name Delaws, and one fellow got store up Klinkwan, up there, and pretty soon the fellows name is John Wallace, John Wallace says this way. One time we call all boys in a house and Mr. John Wallace says this way. you are working here and we will work ourselves in the cannery and fishing and as soon as we get through fishing in the fall time, that money goes in one white fellow and pretty soon get rich and go down Seattle. That fellow got all our money and had a good time, and pretty soon John Wallace says let's quit Klinkwan, let's quit How Kan, let's build new town ourselves and do business ourselves, leave all white man stay outside there.
- Q. How long ago was that?—A. Pretty close seven years now, and pretty soon boat to How Kan and talked all night, and everybody says all right, let's start a new town, and pretty soon a new town, and now to-day we got a store up to Hydaburg over \$50,000 stock in the store, besides money in it.
- Q. And Hydaburg is the new town you started?—A. Yes.
- Q. Lots of you boys started a new town and started this store?—A. Yes.

Q. Seven years ago?—A. Yes.

Q. And now you have got stock in the store worth over \$50,000—A. Over \$50,000 without money.

Q. Besides money?—A. Yes.

Q. And all these boys are in it?—A. And we have got saw mill at Hydaburg. pretty good sized saw mill.

Q. How much is that worth?—A. Worth over \$3,000 and now we have got big wharf, 400 feet, 40 by 80 feet in the front, we have warehouse in the top, and we have got new saw mill, got there all the machinery at Hydaburg now.

Q. And you boys all own that?—A. Yes.

Q. How many boys in that company?—A. Everybody in the town.

Q. Do you have white men run it for you?—A. No.

Q. Run it yourself?—A. Of course, Government looks after school up there.

Q. Does the Government keep the store?—A. A fellow by the name of Hanselman (Hanson), he looks out for everything in the school there.

Q. Who runs this business?—A. Ourselves.

Q. Do you have a white man there?—A. One white man looks after the school.

Q. Does any white man run this business, this store?—A. Ourselves there.

Q. You run it yourself?—A. Yes.

Q. And you say all the people of the town own it?—A. Not all, but we have an interest, everyone.

Q. Who conducts the business, your own boys?—A. Yes.

Q. How many?—A. There is fellow named Paul Charles. And the last of year, fall time, what money we make goes back into store again.

Q. And the last of the season—in the fall—whatever money you make you put in the store to make it a bigger store?—A. Yes. I wish I had a good interpreter, I would talk, explain to you. Now, to-day we have a shingle mill, we have got a dynamo.

Q. Have you got a moving-picture show?—A. Yes; shows and one fellow, his name I don't remember, we pay \$10 a day now, white fellow, his name is Clowdy; before we worked all white fellow and to-day white fellow work for us. That fellows name, Wickersham, he talk against us all the time. Wickersham says we born on the other side there.

Q. He says you live on an Indian reservation, too?—A. Don't live on reservation.

Q. Is that an Indian reservation where all you boys live?—A. No; I don't think.

Q. Do you have a man tell you when you can go, when you can come, and what you must do?—A. No, sir.

Q. You run the place yourselves?—A. Run ourselves there.

Q. You have a city council?—A. Yes.

Q. And mayor?—A. Yes; mayor. Fellow name John Wallace.

Q. And a city attorney?—A. Sure.

Q. Municipal magistrate?—A. You bet you. I wish I would see that Wickersham ourselves because he says us born other side there.

Q. I am glad you didn't, we wouldn't want any trouble. Do you know Alex. Peel?—A. Yes.

Q. Do you know where he was born?—A. I know for myself, and man, you know yourself where born.

Q. How long have you known Alex. Peel?—A. Good many years.

Q. How old is he now?—A. I didn't ask him.

Q. Young man?—A. No; middle aged.

Q. Do you know Joseph Nix?—A. No.

Q. Do you know Louis Tom?—A. Yes.

Q. And Mike George?—A. Yes.

Q. D. D. Nathan, jr.?—A. Yes.

Q. Richard Nix?—A. Yes.

Q. Adam Spoon?—A. Yes.

Q. Jim Wallace?—A. Yes.

Q. Is Wallace the man you say is mayor of the town?—A. No; John Wallace, he is in Seattle now.

Q. Do you know William Peel?—A. Yes.

Q. And they are all Hydaburg boys?—A. Yes.

Q. All voted last November?—A. I wasn't there myself, I was out to Forrester Island.



Q. Did you vote last fall?—A. No; because I was way out in the ocean there.

Q. Do the Indian people living at Hydaburg have any chief?—A. Chief.

Q. Any old Indian customs of any kind?—A. No.

Q. They live just like white men?—A. Of course, you bet.

Q. And you have your own houses?—A. Yes.

Q. Just like white men?—A. Sure.

Q. How many years have you lived that way, all the time since you can remember?—A. Of course, you bet you.

Q. Do you know Thaddeaus Isaac?—A. Yes.

Q. Is he a Hyra?—A. I wish had good interpreter here.

Q. Do you know George Demert?—A. Yes; he belong to Klawak.

Q. And R. J. Peratovich?—A. He belong to Klawak.

Q. Do you know J. K. Williams?—A. No; I guess all belong to Klawak.

Q. Do you know C. P. Wilson, of Klawak?—A. No.

Q. Demert and Peratovich are Hyda Indians?—A. No; Thlinket Indians. Two boys here belong to Klawak, here.

Q. Do you know anything about how the Hyda Indians happened to get on the west coast of Prince of Wales?—A. No.

Q. Don't remember that?—A. Nobody knows.

Q. Why don't you know; did your fathers and grandfathers?—A. My father and grandfather did not know nothing.

Q. Do you know where your grandfather was born?—A. No.

Q. Did he ever tell you whether he was born in Alaska?—A. No.

Q. You never asked him?—A. I didn't ask him.

Q. Do you know Sam Davis?—A. Yes.

Q. Where does he live?—A. Hydaburg.

Q. Is he a Hyda?—A. Yes.

Q. Is he interested in that store with you?—A. No; he has got store himself, up there.

Q. Do you know Charlie Brown?—A. Charlie Brown, no; I know fellow name Johnnie Brown.

Q. Johnnie Brown, he is a Hyda, is he?—A. Yes.

Q. Do you know Peter Annesket?—A. He belong to Klawak.

Q. Do you know Lee Annesket?—A. No.

Q. Maxfield Dalton?—A. No.

Q. Jimmie Anneskit?—A. No.

Q. Clyde Fields, Arthur James; do you know those two men?—A. No.

Q. Do you know Frank Williams?—A. No.

Q. Do you know R. D. Collins?—A. All belong to Klawak.

Q. Do you know Willie Shulka?—A. Yes; I know him.

Q. Where does he live; Hyda, does he?—A. Yes.

Q. Do you know where he was born?—A. No.

Q. Have you known him a long time?—A. Just he is young now.

Q. Just young fellow?—A. Yes.

Q. Now, I understand all you Hyda boys live and conduct yourselves just like white men, and live in your own houses?—A. Yes.

Q. And are in business in this big store?—A. Yes.

Q. And that stock, you say, in the store at the present time, now, is worth over \$50,000?—A. We have other big store; start now new building.

Q. You have got another big store?—A. Yes.

Q. You have a couple of sawmills there?—A. Not two sawmills; new machinery.

Q. New machinery for the old sawmill?—A. We start another good-sized one.

Q. And you own all that, yourselves?—A. Yes.

Q. And don't live on an Indian reservation?—A. No.

Q. You people just moved up there to have a place of your own and to be in business for yourselves?—A. Yes.

Q. No Government agent there?—A. No.

Q. Nobody there to tell you what to do or when to do it, except yourselves?—A. No, no.

Q. You are not the same race as the Thlinkets?—A. Different altogether from the Hyda.

Q. The Thlinkets are not as well educated as you boys are?—A. I don't think so; I don't know.

Q. Thlinkets are cultus?—A. Yes.

Q. But Hydass, they are boys of high intelligence?

## Cross-examination by Attorney SHOUP:

Q. Say, Jim, didn't your people come from Queen Charlotte Islands first time?—A. Who said so?

Q. I am asking you about it.—A. No, sir; nobody knows it.

Q. You don't know anything about that?—A. No.

Q. They have been in Alaska for a long time?—A. Of course.

Q. You don't know whether any came from Queen Charlotte Islands?—A. No.

Q. You don't know whether the Hydass came over from Massett; moved over to this side and lived here?—A. No; I don't think so; one fellow. Waggoner—that is, the fellow make story there himself. He says our grandfathers belong other side, British Columbia side.

Q. In Massett?—A. But nobody know it.

Q. You talk the same language as the people over in Massett?—A. Yes.

Q. They are the Hydass, same as you are?—A. Yes; same thing.

Q. Now, over there at Hydaburg—are there any white men that live there at Hydaburg?—A. No, sir; just one fellow, a Government man and——

Q. One Government man there?—A. Because big building, schoolhouse and building worth over \$12,000.

Q. It belongs to the United States Government?—A. Yes.

Q. How many teachers in that school?—A. Four.

Q. All white men?—A. And expect another, when he come—five.

Q. Another one will make five?—A. Yes.

Q. Is there one man in charge of that?—A. Yes.

Q. Does this white man in charge of that school go over the books of the store every year to see if they are all right?—A. One man come from Seattle.

Q. One man from Seattle?—A. Yes.

Q. Is his name Lopp?—A. No; I forget his name.

Q. He is a Government man?—A. Yes.

Q. And he comes up here every year to go over the books?—A. Well, we pay his fare from Seattle to Hydaburg and back again.

Q. And he audits your books to see that the accounts are straight?—A. Yes.

Q. And he reports back to the Government?—A. I guess so; yes.

Q. When you first started this place over to Hydaburg—the store—did the Government have charge of it for the first year? Government teacher?—A. Of course he did.

Q. Mr. Hawksworth was living there then?—A. Yes.

Q. And he helped you with the store, to keep it straight; helped with the books?—A. Just books.

Q. And you paid Hawksworth and consulted with him as to how to run it?—A. Yes.

Q. And didn't the Government put up some money to build that store; do you know?—A. No, sir.

Q. Are you sure about that?—A. No. The Government didn't put up any money yet.

Q. Didn't the Government put up money for the store the first time?—A. No; we have money.

Q. Didn't the Government put money in to start the store, and it has been paid back?—A. I don't know; I don't think so.

Q. You don't know about that?—A. No.

Q. How about the sawmill; did the Government help to build the sawmill?—A. No.

Q. The Government didn't help you with anything then?—A. No.

Q. Who does that land around Hydaburg belong to?—It belong to the Government.

Q. Didn't the Government make a reservation of that land?—A. No.

Q. No reservation there?—A. I don't think so.

Q. You don't know whether the President put that land apart for the use of the Hydaburg Indians?—A. I wish I had a good interpreter.

Q. You don't know that the President of the United States had selected that land at Hydaburg for the use of the Haida Indians to live on?—A. No.

Q. You don't know anything about that Executive order of the President?—A. No.

Q. Where did you go to school?—A. What?

Q. Did you go to school?—A. For myself?

Q. Yes.—A. Never. I missed it there.

Q. Can you read?—A. No.

Q. Can't read English?—A. No; because I miss it myself—because I born in Klinkwan.

Q. No school there?—A. No.

Q. Your skiff it has not an engine?—A. No.

Q. Pull with oars?—A. No.

Q. Have you an engine?—A. Twenty-horsepower Western Standard.

Q. Before they started Hydaburg what money you people made in the summer you blew in during the winter in the white man's store, spent everything you had?—A. Yes.

Q. Do you have any money now, for yourself?—A. Yes.

Q. Does it belong to you?—A. Yes.

Q. Does the money you are saving belong to the rest of the people or is it your own money?—A. Yes; because we worked for white man, now when we quit work in cannery that man goes to Seattle and pretty soon that fellow go down to Seattle and have big time with our money.

Q. Who do you work for now in the summer time?—A. Now?

Q. Now, yes?—A. Fellow, Mr. Iverson.

Q. White man?—A. Yes.

Q. And all the Hydaburg people work for him?—A. Different canneries.

Q. At white men's canneries in the summer time?—A. Yes.

Q. And in the winter they spend it all in the village?—A. Yes.

Q. What do they do with the lumber they cut in Hydaburg?—A. Need it ourselves and we sell outside in the cannery.

Q. You have got a mayor over there?—A. Yes.

Q. City council?—A. Yes.

Q. How many in the city council?—A. I think somewhere, 12 it was.

Q. You have got an incorporated town?—A. Yes.

Q. Incorporated under that law which provides for the incorporation of Indian towns, Territorial law?—A. Yes.

Q. You didn't vote last year?—A. No; I was in ocean there.

Q. What were you doing in the ocean?—A. Trolling out there.

Q. For salmon?—A. Spring salmon, place named Forrester Island, lots of boys there.

Q. Do you ever go sealing now?—A. No.

Q. Do any of the people go sealing?—A. No.

Q. No more?—A. No more.

Q. Are you in the city council?—A. Yes.

Q. Are you a member of the city council?—A. Because Mr. Hawksworth he is Government teacher that is all.

Q. He helped you to organize the store?—A. One fellow we charter from Seattle.

Q. From Mr. Lopp's office, do you know whether it was Mr. Lopp's man, belonged to the Bureau of Education?—A. Yes; I guess so.

Q. Walter, how do you know that stock in the store over there is worth over \$50,000?—A. Because we charter bookkeeper.

Q. The Government bookkeeper?—A. Yes.

Q. He told you you had \$50,000 worth of stock in the store?—A. Yes.

Q. Who is this man that runs the store, the storekeeper?—A. Paul Charles.

Q. Where did Paul Charles go to school?—A. I don't know, up to Sitka, it was?

Q. Sitka school?—A. Yes.

Q. The Government has a bookkeeper in that store?—A. Well, fellow works after school and he looks after our books all the time.

Q. The Government teacher?—A. He is not teacher, he is after the Government teacher.

Q. What is his name?—A. Hanzelman (Hanson).

Q. Does he live at Hydaburg all the time?—A. Two years.

Q. He works for the Government?—A. Yes.

Q. And takes care of the books in the store?—A. Yes.

Q. And takes care of the books in the sawmill?—A. Yes; everything.

Q. That Government teacher keeps all the books over there in all those businesses?—A. Yes, and before Christmas, we charter fellow from Seattle and pay all his fare.

Q. That is the man from Mr. Lopp's office?—A. Yes.

Q. Mr. Lopp is superintendent of Indian education in Alaska, for the Indian schools all over Alaska?—A. I guess so.

Q. And you pay the fare of one man from his office every year to audit the books?—A. Yes.

Q. But there is a Government man, Mr. Hanselman or Hanson, who lives there and keeps the books?—A. Yea.

By Attorney COSGROVE:

Q. What do you do with all the money you make in the store, Frank; where does that go?—A. What money?

Q. You make lots when you sell goods?—A. Yes.

Q. Who keeps charge of the money. Who takes care of the money in the store?—A. Fellow name's Hanson.

Q. He is a Government man?—A. Yes.

Q. What do you do with it?—A. Keep it and before Christmas and after New Year's count dividends.

Q. You get dividends?—A. Every year.

Q. They divide up the profits among the people there?—A. Yes.

Q. Does the Government take any of the money?—A. No; I don't think as long as square, my gosh.

Q. Do you have to have this Government man, do you have to have him, do you have to employ him or can you get anybody?—A. I can't answer, I don't what you say.

Q. If you want any man to look over the books you can have him?—A. Sure, you bet.

Q. You can hire anybody?—A. No; anybody.

Q. But you hire this Government man?—A. Because he is nice fellow.

Q. Because the Government man is a good man?—A. We can't charter anybody there, we want to take good honest man.

Q. And that is why you get him?—A. Yes. I don't care only one fellow. I don't see Wickersham, he talk against us all the time.

By Attorney SHOUP:

Q. Frank, do you pay Mr. Hanson any money?—A. No.

Q. The Government pays him his salary?—A. Yes.

Q. The Government pays him?—A. Yes.

Q. The Government tells him to take care of the books?—A. No.

Q. The Government tells him to take care of the books?—A. Yes.

Q. And the Government tells him to take money, make check and send you the earnings each year. Mr. Hanson or somebody in an official position decides how much dividends for each man?—A. No answer.

Q. Fellow from Seattle tells how much for Jim Frank, how much for you, and how much for Jim Wallace and everybody?—A. Yes.

Q. How much did you get yourself, your dividends in the store, last year?—A. I think somewhere about over \$80.

Q. You didn't get much?—A. No, sir; because they got some one to pay.

By Attorney COSGROVE:

Q. And whatever you make you keep in your pocket, don't have to give that up, do what you please with it?—A. Yes.

Q. And when you want you go away from Hydaburg and come back when you like?—A. Yes.

Q. The same as white man?—

By Attorney SHOUP:

Q. If I want to live in Hydaburg, could I do it?—A. If you want to. Suppose you start a business for yourself in Hydaburg, you think you start a business for yourself?

Q. I don't think?—A. No; I don't spend for your store.

Q. You won't spend any money with a white man?—A. Yes.

Q. Suppose Mr. Cosgrove wanted to buy a lot in Hydaburg; can he buy a lot there?—A. No, sir.

Q. Any white man he can't get property there?—A. No, sir; because we made white man living there, cut out.

Q. Now the boys cut out all white men?—

By Attorney COSGROVE:

Q. Has the Government got a store there besides your store?—A. No, sir.

Q. How many stores there?—A. One.

Q. Just one, I see.—

Subscribed and sworn to before me this 16th day of October, 1919.

\_\_\_\_\_  
*Notary Public.*

DEPOSITION OF JIM WALLACE.

JIM WALLACE called and sworn:

By Attorney COSGROVE:

Q. What is your name?—A. Jimmie Wallace.

Q. Are you a Haida?—A. Yes.

Q. Live at Hydaburg?—A. Yes.

Q. Are you a member of the council?—A. Yes.

Q. You have a common council?—A. We have a common council.

Q. Are you interested in the store Walter Frank was talking about?—A. Yes; we got a good-sized store over there.

Q. Do you own a boat?—A. Yes; books in the office.

Q. I mean a fishing boat?—A. No.

Q. Do you work in the store?—A. No; work in the store?

Q. Yes?—A. No.

Q. What do you do for a living?—A. I work in the summer and in the sawmill winter time and you want to know what we got in the sawmill.

Q. Are you acquainted with all these boys whose names I read to Walter Frank?—A. Yes.

Q. Where were they born, do you know?—A. Klinkwan.

Q. Alaska?—A. Yes.

Q. How old are you?—A. I think about 42 years, pretty near 39, I think.

Q. Do you know these boys, Paul Morrison?—A. Yes.

Q. Sidney Carle?—A. Yes.

Q. Peter Nathan?—A. Yes.

Q. Reuben Edenshaw?—A. Yes.

Q. Charles Scott?—A. Yes.

Q. Jack Eamso?—A. Who is that?

Q. James Eamso?—A. No.

Q. Do you know where any of those boys were born, whether they were born in Alaska?—A. I don't know.

Q. Do you know Boyd Nakaptha, Luke Frank, Alex Peel, Joseph Nix, Louis Tom, Mike George, D. D. Nathan, jr., Richard Nix, Adam Spron, Jim Wallace, William Peel, Walter Frank? Do you know where these boys were born?—A. Born in Alaska.

Q. They were all born in Alaska, were they?—A. Yes.

Q. Have you known these boys for a long time?—A. Yes; they belong to Klinkwan, too.

Q. Born in Klinkwan?—A. Yes.

Q. How long did you live in Klinkwan?—A. Well, I was born when little boy.

Q. In Klinkwan?—A. Yes.

Q. Now, Walter Frank said that in that store you all had an interest and that it was built by the Indians themselves?—A. Yes.

Q. And you run it yourselves, do you?—A. I am a stockholder myself; I never touch anything in the store.

Q. And you have a Government man come to keep your books and fix up your accounts and figure out your dividends; is that right?—A. Yes; only one a year.

Q. And there is a man named Paul Charles in charge of it?—A. He is manager of the store.

Q. And he is an Indian?—A. Yes.

Q. Haida?—A. Haida; yes.

Q. Did you vote last November?—A. What.

Q. Did you vote last November?—A. For Mr. Sulzer.

Q. Yes?—A. Yes; Mr. Sulzer.

Q. Where, at Sulzer?—A. Yes.



Q. Did any of these boys vote at Sulzer?—A. I don't remember, what go there, four gas boats go there.

Q. What office was Sulzer running for?—A. We all know.

Q. Did any boys vote for Mr. Wickersham?—A. I don't know anything about it; I know myself, I vote for Mr. Sulzer last year.

Q. Do you realize that you are living on a reservation?—A. No; I don't know about it.

Q. You can come and go just as you like over there, and does anybody tell you when to go out and when to come in?—A. I am boss myself; go any time I want.

Q. And whatever money you make you keep yourself and spend it just as you like?—A. I have got enough money; some money in the bank in Seattle.

Q. Do all the people over there dress like white people?—A. Yes; good suit clothes, line (Lion) tailor.

Q. Any chief, Indian chief over there?—A. Town mayor and judge; we make laws ourselves; we sent to Congress and President Wilson signed it and sent it down to Hydaburg.

Q. You signed a paper and sent it to President Wilson?—A. Yes.

Q. What did you want him to do?—A. You see, law of town, if people make trouble, make fight, don't pay taxes, do what people do here.

Q. And then President Wilson said you could have that piece of ground for all the Haidas to live on?—A. Yes.

Q. And run it to suit yourselves?—A. Yes.

Q. And you run it by this council, of which you are a member?—A. Yes.

By Attorney SHoup:

Q. Are you on the council, yourself?—A. Council?

Q. You?—A. No; I don't belong to council.

Q. Did you ever belong to the council?—A. No; other boys.

Q. You are not on the council?—A. No; I don't belong that council: they take good boys on council, and good talking. Council open, all talk English, not Indian.

Q. When you talk with one another in business every day what kind of language do you use?—A. Lots of boys don't talk Haida more than half.

Q. About half talk English?—A. More than half talk English.

Q. What do the old people talk?—A. The old people talk Haida.

Q. You talk Haida?—A. Yes; and boys talk English.

Q. Are you married?—A. No.

Q. If you talk business over in the store, what do you talk? Suppose you go into the store to buy something from the manager?—A. From the manager?

Q. From Paul Charles?—A. He is a good, smart boy; talk English.

Q. Suppose you go and want to buy sugar, do you tell him in English or Haida?—A. Old people?

Q. Same as you?—A. I talk English.

Q. Do you sometimes talk Haida to him?—A. Yes.

Q. Do you sometimes talk Haida to Paul Charles?—A. Yes.

Q. Sometimes everybody talks Haida?—A. I talk Haida lots of times.

Q. Have you got a store over there; who does that store belong to?—A. Belong to Hydaburg town.

Q. What is the name of the company?—A. Hydaburg Trading Co.

Q. Incorporated company?—A. Yes.

Q. Who fixed your company up when it started?—A. All the people themselves.

Q. Who fixed up the papers?—A. The manager in the store.

Q. I mean for the company to get papers from the Government, from the Territory; who was your lawyer?—A. He do the bookkeeping and two boys in the office.

Q. You don't understand me; when you incorporated the Hydaburg Trading Co., who fixed up all the papers to make that company the first time?—A. Mr. Hawksworth.

Q. What was Mr. Hawksworth's job at that time?—A. Just look after the business for the protection of the people.

Q. For the protection of the people he looked after the business?—A. Just bookkeeping for protection when first started, and teaching how to run business.

Q. He told you how to run it?—A. How to learn business, that is all.

Q. Was Mr. Hawksworth working for the Government?—A. Government man; superintendent of schools.

Q. He is superintendent of Indian schools in this part of Alaska, now?—A. Yes.

Q. At that time he was in charge of the Indian school at Hydaburg? Before he left Hydaburg he had charge of your school over there and taught you how to run the business?—A. Just teaching people.

Q. He told you people how to run that business?—A. Yes.

Q. He kept your books?—A. Just tell how to keep books.

Q. When you started that store over there did Mr. Hawksworth loan you any money for your company?—A. No.

Q. Didn't the Government loan the Hydaburg Trading Co. money, and you have paid it back since?—A. No.

Q. Do you know about that; are you sure?—A. Some men got money the time the store start.

Q. Didn't the Government let you have part of the money the first time—the Government?—A. No.

Q. Are you sure about that?—A. No; not sure about that.

Attorney COSGROVE. The Government didn't give you any money?

Answer. No; when first started the people start store. I think about little over 300 people, and some people put \$500, and some people put \$200, and \$100, and when first start little over \$4,000, and second year pretty close \$20,000, and this time \$55,000; store this time, 1918, Hydaburg Trading Co.

By Attorney SHOUP:

Q. Do you know Mr. Hanson, who lives in Hydaburg?—A. Yes; superintendent of school there now.

Q. Does he take care of the books in your store?—A. Works in the school all the time.

Q. Does he go into the store after that and look at the books?—A. He comes out to the cash register and checks up—over \$500 every night.

Q. Mr. Hanson takes the money out of the cash register at night?—A. He takes that money about 8 or 9 o'clock, when store close.

Q. When the store closes he takes care of the money?—A. Yes; another Hydaburg boy looks after money, too; his name Bert. Every week that man sent to Seattle Bank, send to Seattle \$4,000.

Q. Who sent it down, Mr. Hanson?—A. Mr. Hanson and Paul Charles; he sign sheet and send.

Q. They both sign the paper?—A. Yes.

Q. Suppose they send a check on that bank down in Seattle?—A. They got check on Seattle.

Q. Suppose the Hydaburg Trading Co. owes you \$10; they give you check. Who signs that check?—A. Paul Charles.

Q. Mr. Hanson?—A. No; no power to sign.

Q. Mr. Charles?—A. Paul Charles manager in store.

Q. Have you got money of your own in the Seattle bank?—A. Yes.

Q. In what bank?—A. I forgot what it is.

Q. You forget the name of the bank?—A. Biggest any in Seattle, and all people keep money in there.

Q. Who puts it in that bank for them, Mr. Hanson?—A. Hawksworth sent it when first started.

Q. And now if you want to put money in the bank now you give it to Mr. Hanson?—A. I put in part.

Q. You give Mr. Hanson and he put in the money?—A. I put piece of paper out, send money in the bank and then tell all about it, and then sent to Seattle bank and then they returns the cards, and maybe Seattle bank send money. Then I find out money in the bank.

Q. You get a receipt from the bank?—A. Yes.

Q. Have you got a book?—A. No; I doesn't need money in the bank. I ask him when I want it. I don't need; the bank has money.

Q. Suppose you want to get money out of that bank—how do you go to do it?—A. I don't know me, Hydaburg Trading Co.

Q. And the Hydaburg Trading Co. takes it out?—A. No; myself.

Q. From the bank?—A. Yes.

Q. Do you know the name of the bank your money is in?—A. No; I have got my paper in the house.

Q. The Dexter-Horton Bank?—A. I guess it is.

Q. Do you know?—A. Yes. The Hydaburg Trading Co. keeps two places this money.

Q. Now, last November you went up to Sulzer and voted?—A. Last time.

Q. Fifth of November, last year, last fall?—A. Yes.

Q. Last November?—A. All boys.

Q. But you—did you vote for Sulzer?—A. Yes.

Q. Did you live at Hydaburg at that time?—A. Yes.

Q. Is Hydaburg an Indian reservation?—A. No; I don't know.

Q. You don't know anything about the President leaving that ground for the Halda people to use—you don't know anything about it?—A. No; we asked lots of times, white men; people say we are living on reservation and we ask council talk about it one time and sent down to President Wilson and he don't say much, what he answer.

Q. You wrote Mr. Wilson and he didn't have much to say about it?—A. We ask him.

Q. What did he say?—A. He never say anything.

Q. He didn't answer?—A. I don't know anything about it.

Q. Now, Jim, I want to ask you how you voted when you went to Sulzer—Did you vote for Mr. Sulzer?—A. Yes.

Q. Do you read?—A. Sign my name, that is all.

Q. How do you know you voted for Mr. Sulzer?—A. I know.

Q. Who fixed your vote for you—your voting paper?—A. Well, I think a fellow—I don't know his name—that fellow.

Q. Judge of election?—A. No; another man.

Q. Did they have little booths there—little place over one side of the room?—A. Two rooms.

Q. Did you go in that room and fix your paper?—A. I went next room.

Q. Did one man go with you?—A. No; four of them there, and I don't know how many boys.

Q. Did they have three men—judges of that election—three white men?—A. Yes; white men.

Q. Three of them?—A. Yes.

Q. Did one of those three men make a mark for you and vote for Mr. Sulzer?—A. No; he don't know anything about it; I stand next room.

Q. Who fixed up your paper for you?—A. I don't know the fellow—white man, from Sulzer.

Q. But one man fixed it?—A. Only way (say) sign them my name.

Q. Did you have a ballot?—A. What?

Q. Did you have a ballot to vote? Don't you know what a ballot is?—A. No.

Q. Did they give you a long strip of paper about that long [indicating]?—A. Yes.

Q. With some names on it?—A. Make mark in front name we pick for Alaska.

Q. You got a paper with lots of names on it down the side, and did you vote for one man by marking it like that [indicating]?—A. Yes.

Q. You put mark in front of Mr. Sulzer's name?—A. Yes.

Q. You put that mark?—A. I take (make) that myself.

Q. Who told you where to put it?—A. I know a little bit.

Q. Did somebody stand by you when you did it?—A. No.

Q. What office was he running for? What is his job when you voted for him?—A. Mr. Sulzer's what for?

Q. Yes.—A. Delegate from Alaska.

Q. Where to?—A. Congress.

Q. United States Congress?—A. Yes.

Q. Did you vote for somebody for the legislature?—A. Yes.

Q. You voted for somebody for the Alaska Legislature did you?—A. No; Mr. Sulzer, that is all.

Q. You voted, one?—A. I pick another man; I forget his name.

Q. Do you know Mr. Britt?—A. Yes.

Q. Did you vote for him?—A. Yes.

Q. And what was he running for?—A. I forget that time; I know I pick out two men's names.

Q. Do you know Mr. Casey?—A. I don't know him.

Q. Only voted for two men?—A. Yes.

Q. Who told you to vote for those two men?—A. Nobody.

Q. Who did you talk with about it?—A. The people say in Hydaburg, so they tell what time, what day the election for Sulzer.

Q. Did Mr. Hanson tell you about it?—A. No; he don't go.

Q. Did he tell you Mr. Sulzer is a good man?—A. No; he don't tell nobody. I voted myself.

Q. Do you know how the town is incorporated over there? Who gave you authority to have a mayor and council?—A. No.

Q. Is that incorporated as an Indian town?—A. I don't know what you mean.

Q. Would any white man be allowed on the council in Hydaburg?—A. No; all Hyda people.

Q. No white man eligible. Any women on the council—any ladies?—A. No; all young people.

Q. No white men? If Mr. Cosgrove lived in Hydaburg would he be allowed on the council?—A. No.

Attorney COSGROVE. How much money have you got in the bank?

A. I wont tell anybody.

Attorney COSGROVE. Allow me to withdraw that question.

Attorney SHoup. We object to that question being withdrawn.

Attorney COSGROVE. How much of a stock have you got in the Hydaburg Trading Co., how much money?

A. I don't know.

Attorney SHoup. How much dividends did you get last year?

A. You go in office, you find on book.

Attorney COSGROVE. He is afraid of you, too.

By Attorney SHoup:

Q. How much were the dividends last Christmas you got from the Hydaburg Trading Co.?—A. I don't remember; I don't know how much.

Q. You don't remember? Mr. Hanson keeps the books in that store?—A. Another boy he keeps books.

Q. And he assorts the cash?—A. The cash register.

Q. And he is treasurer?—A. Yes.

Subscribed and sworn to before me this 16th day of October, 1919.

Notary Public.

EXHIBIT A.—Assessment roll. town of Ketchikan, June 1, 1918.

To whom assessed.	Description.	Realty.	Per-son-alty.	Total valua-tion.	Tax.	Date of payment.
Fawcett, Mathew...	Cabin, tract of lot 15, block 28...	\$100	.....	\$100	\$2.00	Sept. 3, 1918
Joe, John.....	Cabin, tract of lot 19, block 17...	100	.....	100	2.00	<sup>1</sup> Nov. 4, 1918
Geo. Johnson.....	House, tract of lot 19, block 17..	200	.....	200	4.00	Oct. 15, 1918
Caspar Mather.....	Shop building, tractlot 10, block 28; machine-shop equipment.	350	\$200	550	11.00	Sept. 23, 1918
Mather, Paul.....	House, tract of lot 15, block 28; merchandise, groceries.	250	200	450	9.00	Oct. 21, 1918
Moses, Andy.....	House, lot 5, block 28.....	300	.....	300	6.00	Oct. 12, 1918
McKay, Phil.....	House, Willie Brown tract.....	200	.....	200	4.00	Oct. 28, 1918
Ridley, Robt.....	House, lot 2, block 27.....	550	.....	550	11.00	Oct. 11, 1918
Ridley, Marion.....	House, tract of lot 5, block 26....	250	.....	250	5.00	Sept. 13, 1918
Sayles, Jas. E.....	House, lot 1, block 11.....	1,300	.....	1,300	26.00	Oct. 17, 1918
Starr, Jimmie.....	Cabin, Willie Brown tract.....	75	.....	75	1.50	<sup>2</sup> Nov. 4, 1918
Starr, Joe.....	House, lot 16, block 17.....	500	.....	500	10.00	Oct. 15, 1918
Williams, Geo. C....	House, Mahoney Heights.....	700	.....	700	14.00	Sept. 26, 1918

<sup>1</sup> Penalty, \$0.30.

<sup>2</sup> Penalty, \$0.25.

TERRITORY OF ALASKA,

Town of Ketchikan, ss:

I, A. R. Larson, treasurer of the town of Ketchikan, Alaska, do hereby certify that the above statement correctly and truly shows and is a true copy of the items giving the names of certain named property owners in Ketchikan, the description of the property assessed to each of them, the values thereof, the amount of the tax thereon and the date of payment thereof, for the year 1918, as shown upon the official tax records of said town in my possession as such treasurer.

In witness whereof I have hereunto set my hand at Ketchikan, Alaska, this 10th day of October, 1919.

A. R. LARSON,  
Town Treasurer, Ketchikan.

## CERTIFICATE.

TERRITORY OF ALASKA,

*Town of Ketchikan, ss:*

I, Will H. Winston, a notary public in and for the Territory of Alaska, do hereby certify that pursuant to notices, hereto attached, depositions were taken as follows before me, at my office in the municipal magistrate's office, in the town of Ketchikan:

October 8, 1919: W. H. Hannum, Mrs. Ida Hannum, W. C. Dibrell, Charles Starish, Jimmie C. Starish, H. R. Raffelson, Charles Deppe, Sam Olson, W. B. Sharpe.

October 11, 1919: Ben Ridley, George Booth, Henry Schafer, Louie Hudson, George Johnson, James Starr, Paul Mather, Casper Mather, Joseph John. Edward R. Ridley, Herman Ridley, Joe Starr, George Keegan, George James, William T. Mahoney, George B. Grigsby, James Wickersham, E. C. Austin.

October 13, 1919: Mark Williams.

October 15, 1919: J. W. Bell, Rufus Edenshaw.

October 16, 1919: Walter Frank, Jimmie Wallace.

That the said witnesses were by me duly sworn to tell the truth, the whole truth, and nothing but the truth in said matter: that said depositions were taken by a stenographer in my presence, and the witnesses have, with the following exceptions, after having read their testimony, in my presence subscribed and sworn thereto before me as such notary public.

Depositions unsigned:

H. R. Raffelson. Signature waived by agreement.

Ben Ridley. Witness has failed to appear.

Louie Hudson. Witness has failed to appear.

James Starr. Witness has failed to appear.

Joseph John. Witness has failed to appear.

Mark Williams. Witness has failed to appear.

Walter Frank. Witness has failed to appear.

Jimmie Wallace. Witness has failed to appear.

In witness whereof I have hereto set my hand and notarial seal this 21st day of November, 1919.

[SEAL.]

WILL H. WINSTON,

*Notary Public for the Territory of Alaska.*

My commission expires June 12, 1921.

## NOTICE OF TAKING DEPOSITION.

*To James Wickersham, contestant, and George A. Jeffrey, his agent as constituted by that certain agreement dated at Washington, D. C., July 28, 1919, between James Wickersham, contestant, and George B. Grigsby, contestee:*

You and each of you are hereby notified that the deposition of John J. Reagan, of Juneau, Alaska, now in Washington, D. C., will be taken before K. A. Grace, a notary public in and for the District of Columbia, at her office at Room 705 Colorado Building in the city of Washington, D. C., at the hour of 10 o'clock a. m., on the 9th day of October, 1919, to be read in evidence in the above-entitled proceeding on behalf of the said George B. Grigsby, contestee, and that the taking of said deposition will be continued from day to day thereafter, and over Sundays and other holidays, if any, until the taking of the same shall have been completed. You are requested to have your attorney or agent present to cross-examine said witness.

Dated this 6th day of October, 1919.

GEORGE B. GRIGSBY, *Contestee.*  
By JNO. J. REAGAN, *Agent.*

Received copy this day.

G. A. JEFFERY,  
*Agent of James Wickersham.*

OCTOBER 7, 1919.

UNITED STATES OF AMERICA,

*District of Columbia, ss:*

Jno. J. Reagan, being first duly sworn, deposes and says that he is the duly appointed agent for George B. Grigsby, contestee mentioned in the attached instrument in said contest; that in the city of Washington, D. C., on the 7th



day of October, 1919, he personally served the attached instrument, being notice to take deposition on George A. Jeffrey, the duly appointed agent of the said James Wickersham, contestant therein, by delivering to and leaving with the said George A. Jeffrey a full, true, and correct copy thereof, between the hours of 9 a. m. and 5 p. m. of said day, he being the person designated by the said contestant upon whom to make such service.

JNO. J. REAGAN.

Subscribed and sworn to before me this 9th day of October, 1919.

[SEAL.]

KATHARINE A. GRACE,

*Notary Public in and for the District of Columbia, U. S. A.*

Testimony of John J. Reagan, taken at the office of K. A. Grace, 705 Colorado Building, Washington, D. C., on October 9, 1919, at 10 o'clock a. m., pursuant to the attached notice and proof of service.

Present: John J. Reagan, agent representing Mr. Grigsby under stipulation entered into on the 28th day of July, 1919, between the parties hereto, at Washington, D. C., and George A. Jeffery, representing Mr. Wickersham as his agent under the stipulation above recited.

#### DEPOSITION OF JOHN J. REAGAN.

JOHN J. REAGAN, being duly sworn, testifies as follows:

That in the year 1918, and on the 5th day of November, 1918, he was the assistant United States attorney for the first judicial division of the Territory of Alaska, and that James A. Smiser was then and there the United States attorney for the first judicial division of Alaska.

That the statements and allegations made in the specifications of the ground upon which the contestant, James A. Wickersham, relies in his contest herein stated in paragraph 9, as appears in House Document No. 74, being the contest instituted against Charles A. Sulzer, and by agreement of parties consolidated with a contest against George B. Grigsby and made part of the same contest, are not true.

That he did not on the 5th day of November, 1918, or at any other time, go to the balloting place in Douglas No. 2 voting precinct, on Douglas Island, Alaska, at the time of holding the election for Delegate to Congress from Alaska, or at any other time, and induce and procure the Indians mentioned in said paragraph, or anyone else, to cast their ballot for Charles A. Sulzer or for anyone else; and he did not go to said balloting place and did not induce said persons to cast their votes for said Sulzer "knowing that said Indians were not citizens of the United States and were not entitled to vote at said election," and he did not then and there or at any other time overawe the judges of election at the said election precinct, and he did not then and there or at any other time persuade the judges of said election, contrary to the personal judgment of the said judges of election, or otherwise or at all, to persuade the said Indians to so vote at said election. That he did not induce or procure anyone at all to vote in said election. That he did not know the Indians mentioned in said allegation, to wit, Chief Jimmy Fox, Daniel Josephs, Gilbert Jackson, William Brady, Edward Marshall, John Willis, and John Harris, or any of them, and he never spoke to any of said Indians on any subject within his recollection.

Deponent further says that on the morning of the election mentioned in said paragraph, to wit, November 5, 1918, he was in his office in the courthouse in Juneau, Alaska; that James A. Smiser, mentioned in said paragraph, was also in said office; that some time before noon of that day the governor of Alaska, James Riggs, jr., accompanied by one Seward Koons came into said office and asked both Mr. Smiser and deponent what the law was in regard to the rights of Indians to vote; that thereupon either himself or Mr. Smiser read to the governor from Section VI of the act of February 8, 1887, at page 536, Volume I, of Supplement to the Revised Statutes of the United States, as follows:

"Every Indian born within the territorial limits of the United States, who has voluntarily taken up within said limits his residence separate and apart from any tribe of Indians therein and has adopted the habits of civilized life is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges, and immunities of such citizens, whether such Indian has been or not by birth or otherwise a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the rights of such Indians to tribal or other property."

Thereupon at the request of the governor the language of said statute as read was written on a sheet of paper, and an opinion substantially to this effect was added thereto: "That it is the opinion of this office that any Indian who has conformed to the requirements in said statute set forth is a citizen of the United States if born within the limits of the United States and that he is entitled to vote." A form of affidavit was appended thereto to this effect:

"I am an Indian born within the limits of the United States. I have voluntarily taken up my residence separate and apart from any tribe of Indians therein and have adopted the habits of civilized life, and assert my right to vote in any election and the right to swear in my vote if challenged as any other citizen."

At the request of the governor some copies of this were made and sent to the judges of election of the various precincts in Juneau and Douglas. Deponent himself carried copies to the Douglas precinct, as there was nobody else to send. At the Douglas precinct, which had its voting place at the fire station house, the judges said they were very glad to receive such opinion as they did not know what to do in case of Indians asking to vote. At the other precincts, the voting place of which was in the natatorium, this opinion was also left and the judges of election there also expressed their satisfaction at receiving it. As he was leaving that precinct some one there, laughing, in a manner which deponent took to be a joke, said, "Who are they going to vote for?" to which deponent replied, "That is none of my d—— business." He immediately left Douglas and returned to Juneau. Deponent states that he knows personally that Mr. Smiser was not in Douglas on that day; he also knows that Mr. Smiser did not see or talk to any Indian at any time that day unless it was during the time deponent was in Douglas, and as he found Mr. Smiser in the office upon his return from Douglas deponent does not believe that said Smiser left the office at all.

As to the allegations in paragraph 10 of said specifications in the same document, deponent does not know any of the Indians mentioned therein except Jack Gamble and Charlie Gamble, and possibly John Harris, if the John Harris mentioned therein is the same John Harris who acts as interpreter in the courts. In that case, he knows Harris; otherwise not. The two Gambles he knows by reason of their having been witnesses in cases which deponent tried in the court. Deponent never spoke to any of the persons mentioned in said paragraph at any time on the subject of voting at all, either then or at any other time; he did not go to any polling place in the city of Juneau on said election day at all; he did not induce any Indians whatever to cast their ballots in said election for any persons whatever, and he did not request them to vote for any of them. Deponent states that he did not directly or indirectly suggest to any Indian that he vote either in Juneau or in Douglas, either on that day or at any other time; that he did not by virtue of his official position or otherwise overawe or attempt to overawe any of the judges of election at said election or at any other election or election precinct, and he did not then or at any other time persuade the judges of election contrary to their personal judgment or otherwise to permit the said or any other Indian to vote at said election, nor did James A. Smiser, so far as deponent was able to ascertain; but deponent absolutely knows that said Smiser did not do so in Douglas for he was not there, and with the exception of the time consumed in deponent's going to Douglas Smiser was not out of deponent's sight all of election day; deponent does not know that said Smiser was not out of the office at such time, but believes that he was not at that or at any other time during the day while the polls at such election were open.

Deponent further states that he did not, by reason of his official position or otherwise, or at all, overawe or attempt to overawe any judge of any election on said day or at any other time, and that he did not persuade or attempt to persuade or suggest to any judge of any election on that day or otherwise or at all, contrary or otherwise to his personal judgment to permit said or any Indians to vote at said election or at any election.

Deponent further says that he has lived in Juneau since 1913; that most of the Indians do not maintain tribal relations in said neighborhood; that they occupy houses, each family living separately in its own house; houses constructed the same as any other houses in Juneau and furnished likewise; that they are engaged in working in the mines and on the boats and along shore and in fishing and hunting the same as the white man; that they receive the same wages as the white man; that they have their schools and churches; and

that in the opinion of deponent the majority of the Indians in the neighborhood of Juneau and Douglas have complied with all of the requirements of the section of the law heretofore set forth herein.

Deponent has no personal knowledge that any Indian voted in said election.

JNO. J. REAGAN.

(Cross-examination waived and witness excused.)

I, Katharine A. Grace, a notary public in and for the District of Columbia, do hereby certify that in accordance with the attached notice, the above-named witness, John J. Reagan, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth.

That the foregoing deposition by him subscribed was reduced to writing by me, and by said witness subscribed in my presence, and was taken by agreement at the time and place specified.

In testimony whereof I have hereunto set my hand and official seal this 9th day of October, A. D. 1919.

[SEAL]

KATHARINE A. GRACE,  
Notary Public.

#### NOTICE OF TAKING DEPOSITIONS.

*To the honorable James Wickersham, contestant, and to J. L. Reed, Esq., his duly authorized agent:*

You and each of you will please take notice that the testimony by deposition of the hereinafter-named witnesses, on behalf of the above-named contestee, will be taken before Frank J. Hayes, a notary public for the Territory of Alaska, at his office in the town of Valdez, Alaska, at the hour of 10 o'clock in the forenoon on the 11th day of October, 1919, and continuing from day to day thereafter until all of said depositions are taken. That the names of said witnesses are as follows, to wit: T. J. Donohoe, H. B. Selby, Hamner Huston, Anthony J. Dimond, Harry Shutts, Charles E. Bunell.

Hereof you will take due notice.

GEORGE B. GRIGSBY, Contestee.  
By ANTHONY J. DIMOND,  
Agent and Attorney for Contestee.

Service of the foregoing notice is hereby acknowledged and accepted at Valdez, Alaska, this 29th day of September, 1919.

JAMES WICKERSHAM, Contestant.  
By J. L. REED,  
Authorized Agent for Contestant.

#### NOTICE OF TAKING DEPOSITION.

*To the honorable James Wickersham, the above-named contestant, and to J. L. Reed, Esq., his duly authorized agent:*

You and each of you will please take notice that the testimony by deposition of Aaron E. Rucker, a resident of Valdez, Alaska, and a witness on behalf of the above-named contestee, will be taken before Frank J. Hayes, a notary public for Alaska, at his office at Valdez, Alaska, at the hour of 3.30 o'clock in the afternoon of the 7th day of October, 1919.

GEORGE B. GRIGSBY, Contestee.  
By ANTHONY J. DIMOND,  
Agent and Attorney for Contestee.

Service of the foregoing notice is acknowledged and admitted this 6th day of October, 1919, at Valdez, Alaska.

JAMES WICKERSHAM, Contestant.  
By J. L. REED,  
Authorized Agent for Contestant.

Be it remembered: That pursuant to the statutes of the United States governing contested-election cases in the election case and proceedings of James Wickersham, contestant, v. Charles A. Sulzer, contestee, and James Wickersham, contestant, v. George B. Grigsby, contestee, contesting the right to a seat as Delegate from the Territory of Alaska to the House of Representatives of the United States, and pursuant to the hereto annexed notice of taking of depositions on behalf of George B. Grigsby, the contestee, there appeared before

me, Frank J. Hayes, a notary public for Alaska, at my office at Valdez, Alaska, the following-named witnesses and other persons on the several dates hereinafter set out, to wit:

On October 7, 1919, there appeared before me A. E. Rucker, the identical witness named in the hereto annexed notice, the date and service of which is acknowledged on the 6th day of October, 1919, and at said time and place also appeared J. L. Reed, Esq., and E. E. Ritchie, Esq., attorneys for James Wickersham, contestant, and Anthony J. Dimond, attorney for George B. Grigsby, contestee, and thereupon the said A. E. Rucker was sworn by me to tell the truth, the whole truth, and nothing but the truth and gave his deposition as hereinafter set out. The direct interrogatories being propounded to him by the attorney for the contestee and the cross interrogatories being propounded to him by the attorneys for the contestant.

That thereafter, and on October 11, 1917, at the hour of 10 o'clock in the forenoon, at my said office, appeared Hamner Houston and Anthony J. Dimond, two of the identical witnesses named in the hereto annexed notice of contest, service of which is acknowledged under date of September 29, 1919. There also appeared J. L. Reed, Esq., and E. E. Ritchie, Esq., attorneys for the said contestant. Thereupon the said Hamner Houston and Anthony J. Dimond were by me duly sworn to tell the truth, the whole truth, and nothing but the truth, and gave their depositions as hereinafter set out. The direct interrogatories being propounded to the said Hamner Houston by Anthony J. Dimond, who was attorney for the contestee, and the cross-interrogatories being propounded to the said Hamner Houston by said attorneys for the contestant. After the taking of the depositions of the said Hamner Houston and the said Anthony J. Dimond, with the consent of all the parties thereto, the taking of said depositions of the other witnesses named in said notice was continued until the hour of 5 o'clock in the afternoon of October 13, 1919.

That thereafter, and at the hour of 5 o'clock in the afternoon of the 13th day of October, 1919, there appeared before me at my said office Charles E. Bunnell, one of the identical witnesses named in said notice. Also appeared J. L. Reed, Esq., attorney for the said James Wickersham, contestant, and T. J. Donohoe, Esq., attorney for the said George B. Grigsby, contestee. Thereupon the said Charles E. Bunnell was duly sworn by me to tell the truth, the whole truth, and nothing else but the truth, and gave his deposition, as is hereinafter set out. The direct interrogatories being propounded to him by said T. J. Donohoe and the cross-interrogatories being propounded to him by the said J. L. Reed. At the close of the taking of the deposition of the said Charles E. Bunnell, with the consent of all the parties thereto, the taking of the deposition of H. B. Selby, one of the witnesses named in said notice was continued until October 15, 1919, at the hour of 5.30 o'clock in the afternoon of said date.

That thereafter and at the hour of 5.30 o'clock in the afternoon of the 15th day of October, 1919, there appeared before me at my said office, H. B. Selby, one of the identical witnesses named in said notice, also appeared Anthony J. Dimond, Esq., attorney for said George B. Grigsby, contestee, and J. L. Reed, Esq., attorney for James Wickersham, contestant. Thereupon the said H. B. Selby was by me sworn to tell the truth, the whole truth, and nothing but the truth, and gave his deposition as is hereinafter set out. The direct interrogatories were propounded to said witness by the said Anthony J. Dimond, attorney for contestee, and the cross interrogatories were propounded to said witness by J. L. Reed, Esq., attorney for contestant.

Thereupon the taking of depositions on behalf of the contestee before me was closed. That said depositions, and all of them, together with the exhibits mentioned therein, each exhibit being signed by me for identification, are as follows, to wit:

#### DEPOSITION OF A. E. RUCKER.

A. E. RUCKER, a witness called in behalf of the contestee, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. DIMOND:

Q. State your name, age, and residence?—A. A. E. Rucker; 23 years old; residence, Valdez at the present time.

Q. Were you one of the judges of election at the Valdez Bay voting precinct in the November, 1918, election?—A. I was.

Q. Who were the other judges of election?—A. Lysle D. Brown and Edward P. Cashman.

Q. Where were you living at that time?—A. I was living at Fort Liscum.

Q. How long had you been at Fort Liscum and how did you come to go there?—A. I was drafted from the Valdez board and reported at Fort Liscum July 9, 1918.

Q. Before going to Fort Liscum where had you resided for several years?—A. Valdez.

Q. How long had you resided at Valdez?—A. Since August 1, 1910.

Q. I herewith hand you an election register and tally book of the November, 1918, election for the Valdez Bay voting precinct and desire to call your attention to the first name written thereon, Fred C. Hartman. Do you know that man?—A. Yes, sir.

Q. How long have you known him?—A. To my knowledge I became acquainted with Mr. Hartman at Fort Liscum.

Q. When was that?—A. It was during the summer months I know in 1918—I don't remember what month exactly.

Q. Do you know how long Hartman had been at Fort Liscum prior to November 5, 1918?—A. I know he had been there for at least 60 days, anyhow.

Q. Do you know from what place he was inducted or drafted?—A. He was inducted by the Valdez board and reported from Wilson's Camp at Fidalgo Bay.

Q. That is about 50 or 60 miles from here?—A. Yes, sir.

Q. Do you know whether or not he had resided in Alaska prior to the time of his induction?—A. I have talked to Mr. Hartman, and in fact have worked with him for two months since then, and he has been in Alaska, from my conversation with him, about 12 years, I think.

Q. Take the next man.—A. C. A. Edmund.

Q. Was he an inducted man at the post?—A. Yes, sir.

Q. How long had he been at Fort Liscum prior to November 5, 1918?—A. He had been there from some time in September, I think.

Q. Do you know whether he was a resident of Alaska at the time of his induction?—A. Yes; he was inducted, I believe, from the Cordova board or Kennecott, somewhere in the Copper River region.

Q. What rank did you hold at Fort Liscum?—A. I was acting sergeant major.

Q. And did you have access to the records of these various men?—A. Most of these men I met at the dock when they arrived and conducted them to the quarters and had interviews with most of them and made out their Army service record and handled their draft papers from start to finish.

Q. Take the next man.—A. H. M. Lawrence.

Q. Who is he?—A. H. M. Lawrence was inducted from Latouche—he was working at Latouche and was inducted by the Valdez board.

Q. How long had he been at Fort Liscum prior to this election?—A. I am not sure of the date this man reported, but it was some time in August, I believe.

Q. Are you sure it was more than 30 days prior to the election?—A. Yes, sir; I am sure it was more than 30 days.

Q. Do you know how long he had been in Alaska prior to his induction?—A. No; I do not; but I know he had been employed at Kennecott some time before he went to Latouche; so he had been in Alaska for some time.

Q. The next man.—A. E. C. Reuter.

Q. Where was he residing at the time of his induction?—A. Valdez.

Q. He was inducted by the Valdez board?—A. Yes, sir.

Q. Do you know the date upon which he first went to Liscum?—A. It was along some time in July.

Q. And he remained there continuously until after the election?—A. Yes, sir.

Q. Is the military post at Fort Liscum entirely within the Valdez Bay voting precinct?—A. The Valdez Bay voting precinct is the one established at the Granby.

Q. Yes; the one where you acted as judge. Is the military post at Liscum entirely within that precinct?—A. Yes, sir.

Q. And all of these men you have mentioned were stationed at Fort Liscum?—A. Yes, sir.

Q. And were in the military service, United States Army?—A. Yes, sir.

Q. Take the next man.—A. Jerry T. Allen.

Q. Do you know anything about his induction or enlistment, as to where it took place?—A. Jerry T. Allen originally must have enlisted somewhere in the States. He is an old soldier and only has a few more years to serve.



He had been reenlisted, I believe, in Alaska, because he had been in Alaska, to my knowledge, three years prior to this election.

Q. And had been at Fort Liscum continuously all the time?—A. Yes, sir.

Q. What is the next name?—A. Pete Tessitore.

Q. From what place was he inducted or enlisted?—A. When drafted he was working at the Treadwell mines as a bulldozer, that is in southeastern Alaska, and he came to Fort Liscum sometime in June.

Q. And remained there continuously until subsequent to this election.—A. Yes, sir.

Q. You have no knowledge, I suppose, how long he had been in Alaska prior to his induction?—A. No; I don't know.

Q. Who is next?—A. John Turner.

Q. Do you know at what place he was inducted?—A. I don't remember what place he was inducted; I remember handling his induction papers which were Alaskan draft papers.

Q. He was drafted somewhere in Alaska?—A. He was drafted somewhere in Alaska, I believe from the Cordova region.

Q. On or about what date—can you state positively whether it was more than 30 days prior to the election?—A. Yes, I can; because we received very few men at Liscum after October.

Q. The next man.—A. Charles Wyatt.

Q. Do you recollect from what place he was drafted?—A. He came from the Cordova or Copper River region, drafted by the Cordova or Kennecott board, I forget which.

Q. How long had he been at Liscum prior to November 5, 1918, or about how long?—A. He had been there more than 30 days to my knowledge.

Q. Do you know how long he had been in Alaska prior to his induction?—A. From my acquaintance with Wyatt, from his talk, I judge he had been in Alaska for some time.

Q. The next one.—A. John D. Chamberlain. He was drafted from the west, above Anchorage somewhere.

Q. That is in this Territory of Alaska?—A. Yes, sir.

Q. About what time?—A. During the summer months, August or September, I think, 1918.

Q. Do you know how long he had been in Alaska before his induction?—A. No; I do not.

Q. Take the next one.—A. Frank Forker. He was residing somewhere in the west—I believe he comes from the Kodiak, Alaska, region.

Q. Had he been at Fort Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. Who's next?—A. John T. McEvoy. He was a soldier at Fort Liscum.

Q. And how long had he been at Fort Liscum?—A. He had been there about two years I know of; he came to Liscum with the Fourteenth Infantry.

Q. He had been at Liscum about two years prior to this election?—A. Yes, sir.

Q. And was enlisted from Kodiak, Alaska, or somewhere in that vicinity?—A. No; he was an enlisted man from the States.

Q. You don't know whether he ever reenlisted in Alaska or not?—A. No; I do not.

Q. The next one.—A. Patrick McDermott.

Q. Was he inducted from Alaska?—A. Yes, sir.

Q. Do you know what part of Alaska he came from?—A. I am not positive as to the region from which he came.

Q. Do you know whether he was at Liscum for 30 days prior to the election?—A. I am quite sure he was there more than 30 days—I was trying to think of the correct date, but the date when these different men arrived has escaped me.

Q. The next one.—A. Frank Poore.

Q. Was he a soldier in the Army at the time of the election?—A. Yes, sir.

Q. Stationed at Fort Liscum?—A. Yes, sir; stationed at Fort Liscum.

Q. How long had he been there?—A. He had been there since about August or September.

Q. From what place was he inducted?—A. Kennecott.

Q. Do you know how long he had been at Kennecott prior to his induction?—A. No, sir; I do not.

Q. The next one.—A. Claude James.

Q. Where was he living or residing at the time of his induction at Fort Liscum?—A. I am not familiar with where he came from; I am familiar with

his name, having handled his draft papers—what region he came from I don't know.

Q. Do you know whether he came from Alaska or the outside?—A. Alaskan draft.

Q. Had he been at Fort Liscum more than 30 days prior to the election of November 5, 1918?—A. Yes, sir.

Q. Who is next?—A. Eric Myhberg.

Q. Was he an Alaskan drafted man?—A. Yes, sir.

Q. What section of the country did he come from?—A. Kennecott.

Q. Do you know how long he had lived at Kennecott before his induction?—A. No; I know he was employed as a carpenter at the Kennecott mine when drafted.

Q. Was he at Fort Liscum more than 30 days prior to this election?—A. He was there from some time in June, 1918.

Q. The next one?—A. A. J. Penttinen.

Q. From what place was he inducted?—A. He came from southeastern Alaska, I believe Ketchikan.

Q. He was drafted from Alaska, from some part of Alaska?—A. He was; yes, sir.

Q. Had he been at Fort Liscum more than 30 days prior to the election of November 5, 1918?—A. Yes, sir.

Q. Do you know how long he had lived in Alaska before induction?—A. No, sir; I do not.

Q. Next one. —A. Edward P. Cashman.

Q. He is a civilian?—A. He is a civilian residing at the Granby mine.

Q. He was one of the judges of election?—A. Yes, sir.

Q. Who is next?—A. Lysle D. Brown.

Q. Who was he?—A. He was one of the judges of election and was a soldier in the service, a draftee from the McCarthy board.

Q. McCarthy is in the Territory of Alaska?—A. Yes, sir.

Q. Do you know how long he had lived in Alaska before he was inducted?—A. No; but to my knowledge he had been in Alaska for some time he was a freighter, engaged in freighting in the interior.

Q. Was he at Fort Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. Who is next?—A. A. E. Rucker.

Q. You have told about your residence?—A. Yes, sir.

Q. Next. —A. Sam Campbell.

Q. Who is he?—A. He is a civilian employed at Liscum, a civilian employee stationed at Fort Liscum, a civil-service employee.

Q. Who is next?—A. Joseph Newman. He is fireman on the Donaldson and a soldier in the United States Army.

Q. How long had he been at Fort Liscum?—A. I am not positive, but it has been at least five years.

Q. Do you know whether he ever reenlisted there?—A. I think he did, but I am not positive of that.

Q. The next one.—A. E. A. Johnson.

Q. Who is he? From what place was he drafted?—A. He is a draftee from the Cordova, Alaska, board.

Q. Do you know how long he had lived in Alaska before his induction?—A. No; I do not.

Q. About what time was he inducted, do you know?—A. Some time in September.

Q. Take the next.—A. R. B. Hamilton.

Q. He was a soldier in the Army at the date of the election?—A. Yes, sir.

Q. From what place was he drafted or inducted?—A. I am not sure as to where he enlisted.

Q. Was it from Alaska or outside of Alaska?—A. I am not sure; he came to Fort Liscum some time in June from Fort William H. Seward, and had been at Fort William H. Seward a year or more, but whether he enlisted in Alaska or outside I do not know.

Q. He was at Liscum continuously from June until the date of the election?—A. Yes, sir.

Q. Next one.—A. Fred C. Bretherson.

Q. From what place was he inducted?—A. Cordova, Alaska.

Q. Do you know how long he had lived in Alaska before the date of his induction?—A. No; I do not. He was night marshal at Cordova for some period of time before his induction into the service.

Q. Was he at Fort Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. Who is next?—A. A. J. Davis.

Q. From what place was he drafted?—A. From Katalla.

Q. Do you know where he is now?—A. I believe he is still in Katalla.

Q. Addison J. Davis?—A. Yes, sir.

Q. He was an Alaskan draftee?—A. Yes, sir.

Q. And had been at Fort Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. Who is next?—A. Mrs. James W. Johnston.

Q. Who was Mrs. James W. Johnston?—A. She was the wife of the post surgeon.

Q. His name follows hers on the list there?—A. Yes, sir.

Q. He was the post surgeon at Fort Liscum?—A. Yes, sir.

Q. Do you know where they resided before they came to Fort Liscum?—A. At Sitka, Alaska.

Q. Do you know at what time he came to Fort Liscum, about what time; did they come before you arrived?—A. Yes, sir.

Q. Take the next name.—A. George F. Baker.

Q. Was he an Alaskan draftee?—A. Yes, sir.

Q. From what part of Alaska?—A. Somewhere near Anchorage.

Q. How long had he been at Fort Liscum prior to the date of the election?—A. Some time in August or September he came to the post.

Q. Do you know how long he had lived in Alaska before his induction?—A. No; I do not.

Q. Take the next.—A. W. S. Beck.

Q. Who is he?—A. He is a civilian employee stationed at Fort Liscum.

Q. Not a soldier?—A. No.

Q. The next.—A. H. T. Anderson.

Q. Who is he?—A. He was a soldier at this time, a draftee from Katalla, Alaska.

Q. And had been at Fort Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. Next.—A. William N. Hoaring.

Q. Was he a soldier at the date of the election?—A. Yes, sir.

Q. From what part of Alaska?—A. He came from the western part of Alaska, inducted, I believe, at Anchorage.

Q. He was living in Alaska at the time of his induction?—A. Yes, sir.

Q. How long had he been at the post before election?—A. He had been there longer than 30 days.

Q. Next.—A. Bruce Rider. He was inducted by the Valdez board, and was at Fort Liscum from some time during the summer months.

Q. He had been at Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. And before his induction, for a number of years, he had resided at Valdez, Alaska?—A. Yes, sir.

Q. You know him personally?—A. Yes, sir.

Q. Take the next.—A. P. S. Truckey.

Q. He was inducted from what place?—A. Cordova—either Cordova or Kennecott, I am not sure.

Q. He was living in Alaska at the time of his induction?—A. Yes, sir.

Q. And had he been at Fort Liscum more than 30 days prior to the election?—A. Yes, sir.

Q. Who is next?—A. B. Presley.

Q. He was a soldier inducted from what place?—A. By the Valdez board from Latouche Island—he was working at the time as repair foreman in the mill at Latouche.

Q. Had he been at Liscum more than 30 days prior to the election of November 5, 1918?—A. Yes, sir.

Q. Take the next.—A. W. T. Stuart.

Q. He is a civilian?—A. He is a civilian who was employed at the power plant.

Q. That is about a mile from Liscum, or 2 miles?—A. Yes, sir.

Q. Who is next?—A. Mrs. E. P. Cashman.

Q. She is the wife of E. P. Cashman, who is also a civilian?—A. Yes, sir.

Mr. DIMOND. That completes the list; that is all.

Cross-examination by Mr. REED:

Q. Prior to your going over to Fort Liscum your home was here in the town of Valdez?—A. Yes, sir.

Q. You had never lived at Fort Liscum prior to being drafted?—A. No, sir.

Q. You had no home over at Fort Liscum?—A. Only as a soldier.

Q. And that is true of all of these men that were drafted there—they went there in obedience to military orders under the requirements of the draft?—A. Yes, sir.

Q. And that is a military post?—A. Yes, sir.

Q. And they all lived there from the time they arrived as soldiers and under the military requirements?—A. Yes, sir.

Q. Within the Valdez Bay voting precinct there are very few homes, outside of the military post—there are very few people that reside there outside of the post?—A. Yes, sir; very few.

Q. You have named a few here that voted on November 5, 1918, and stated that they were civilians—W. S. Beck and W. T. Stuart and Mr. and Mrs. Cashman and Sam Campbell?—A. Yes, sir.

Q. Outside of those stated, all the rest of them were soldiers and lived at the military post—either they were drafted men or were regular soldiers from the States?—A. Excepting. I suppose. Mrs. Johnston; her home was at the post.

Q. She was the wife of Dr. Johnston, the post surgeon, as you have stated?—A. Yes, sir.

Q. You voted on November 5, 1918?—A. Yes, sir.

Q. Do you mind stating whom you voted for?—A. No; I guess not.

Q. State whom you voted for?—A. I voted for Mr. Sulzer.

Q. You had lived in Alaska quite a number of years prior to going to the post?—A. Yes, sir.

Q. And your home had never been there until as stated you were inducted into the service under the draft and went over there as a soldier in obedience to the military requirements and orders—that is correct, is it?—A. Yes, sir.

Mr. REED. That is all.

By Mr. DIMOND:

Q. Do you know how many soldiers were at Fort Liscum at the date of this election?—A. No; I do not—there were over 200 or more—I know for sure there were over 200 there.

Q. This total list is only 37 names altogether—how does it come that more of the soldiers did not vote—and there are some civilians?

Mr. RITCHIE. We object as calling for a conclusion of the witness.

A. We let it be definitely known to these men that they couldn't vote if they hadn't been there more than 30 days and there had been 50 or 60 men from Anchorage that had arrived within 30 days prior to the date of the election and they didn't vote.

Q. I hand you the registration book for the November, 1918, election, of the Valdez Bay voting precinct, and ask you to state whether or not that is the registration book used by your board at that election?—A. Yes, sir; it is.

Q. Is that the original?—A. Yes, sir; that is the original.

Mr. DIMOND. I want the privilege of substituting certified copies of these two books, the election register and the registration book, for the Valdez Bay voting precinct, November, 1918, election and offer the certified copies in evidence as Exhibits A and B.

(No objection.)

Certified copy of election register and tally book for November, 1918, election for Valdez Bay voting precinct is marked "Exhibit A," testimony of A. E. Rucker; is attached hereto and made a part hereof.

Certified copy of registration book for November, 1918, election for Valdez Bay voting precinct is marked "Exhibit B," testimony of A. E. Rucker; is attached hereto and made a part of hereof.

(Witness excused.)

A. E. RUCKER.

Subscribed and sworn to before me, this 17th day of October, 1919.

[SEAL.]

FRANK J. HAYES,

*Notary Public in and for the Territory of Alaska.*

Commission expires May 19, 1921.

## EXHIBIT A.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court for the Territory of Alaska, Third Division, do hereby certify that the attached is a full, true, and correct copy of the original "Names as they appear on election register and tally book for November, 1918, election for Delegate to Congress, Valdez Bay voting precinct," as the same appears on file and of record in my office.

In testimony whereof, I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 20th day of October, 1919.

[SEAL.]

ARTHUR LANG, Clerk.

*Election register and tally book for November, 1918, election.*

No. of persons voting.	Names of voters.	No. of persons voting.	Names of voters.
1.....	Fred C. Hartman.	20.....	Sam Campbell.
2.....	C. A. Edmund.	21.....	Joseph Newman.
3.....	H. M. Lawrence.	22.....	E. A. Johnson.
4.....	E. C. Reuter.	23.....	R. B. Hamilton.(?)
5.....	Jerry T. Allen.	24.....	Fred C. Bretherson.(?)
6.....	Pete Tessitore.	25.....	A. J. Davis.
7.....	John Turner.	26.....	Mrs. James W. Johnston.
8.....	Charles Wyatt.	27.....	James W. Johnston.
9.....	John D. Chamberlain.	28.....	George F. Baker.
10.....	Frank Forker.	29.....	W. S. Beck.
11.....	John T. McEvoy.	30.....	H. T. Anderson.
12.....	Patrick McDermott.	31.....	Bruce Rider.
13.....	Frank Poore.	32.....	William N. Hoaring.
14.....	Claude H. James.	33.....	Bruce Rider.
15.....	Eric Myhberg.	34.....	P. S. Truckey.
16.....	A. J. Penttinen.	35.....	B. Presley.
17.....	Edward P. Cashman.	36.....	W. T. Steuart.
18.....	Lysle D. Brown.	37.....	Mrs. E. P. Cashman.
19.....	A. E. Rucker.		

## EXHIBIT B.

UNITED STATES OF AMERICA,

*Territory of Alaska, Third Division, ss:*

I, the undersigned clerk of the District Court of the Territory of Alaska, Third Division, do hereby certify that the attached is a full, true, and correct copy of the original "Names as they appear on the registration book for November, 1918, election for Delegate to Congress, Valdez Bay voting precinct," as the same appears on file and of record in my office.

In testimony whereof I have subscribed my name and affixed the seal of the said court at Valdez, Alaska, this 20th day of October, 1919.

[SEAL.]

ARTHUR LANG, Clerk.

*Registration book for November, 1918, election for Delegate to Congress.*

No. of persons registering.	Names of persons registered.	No. of persons registering.	Names of persons registered.
1.....	Fred C. Hartman.	20.....	Sam Campbell.
2.....	C. A. Edmond.	21.....	Joseph Newman.
3.....	H. M. Laurence.	22.....	F. A. Johnson.
4.....	E. C. Reuter.	23.....	R. B. Hamilton.
5.....	Jerry T. Allen.	24.....	Fred C. Brotherson.
6.....	Pete Tessitore.	25.....	A. J. Davis.
7.....	John Turner.	26.....	Mrs. James W. Johnston.
8.....	Charles Wyatt.	27.....	James Johnston.
9.....	John D. Chamberlain.	28.....	George F. Baker.
10.....	Frank Forker.	29.....	W. S. Beck.
11.....	J. T. McEvoy.	30.....	H. T. Anderson.
12.....	Patrick McDermott.	31.....	Bruce Rider.
13.....	Frank Poore.	32.....	William S. Hair.(?)
14.....	Claude H. James.	33.....	
15.....	Rex Erick M. Myhrberg.	34.....	P. S. Truckey.
16.....	A. J. Penttinen.	35.....	B. Presley.
17.....	Edward P. Cashman.	36.....	W. T. Stuart.
18.....	Lysle D. Brown.	37.....	Mrs. E. P. Cashman.
19.....	A. E. Rucker.		



## DEPOSITION OF HAMNER HUSTON.

HAMNER HUSTON, a witness called in behalf of the contestee, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. DIMOND:

Q. You may state your name and occupation.—A. Hamner Huston, major, Signal Corps.

Q. Are you in command of the United States Military Telegraph and Cable System, including the Signal Corps at Valdez, Alaska, and in the entire Territory?—A. No; I am in charge of the first section of the Washington-Alaska Military Telegraph and Cable System.

Q. What constitutes the first section of this system?—A. That includes the station at Cordova and Seward and all stations from Valdez to Fairbanks, inclusive.

Q. And you have no charge of the stations beyond Fairbanks?—A. No, sir.

Q. How long have you been in charge of this first section of the system?—A. Since July 1st of this year.

Q. Did you receive at any time any orders from the War Department or from your immediate superior to assemble any of the Signal Corps men in order that they might give their depositions in the pending contest?—A. I did.

Q. You received the order by cable or by letter?—A. By cable.

Q. Have you a copy of the order with you?—A. Yes, sir.

Q. May I see it?—A. Yes, sir. [Witness produces it.]

Mr. RITCHIE. There is no dispute about that fact—I think it is already in the record—the fact that such an order was sent out is already in the record.

Mr. DIMOND. We now offer in evidence this cablegram dated Seattle, Wash., August 29, 1919, relative to the assembling of the Signal Corps men to give their depositions.

Q. That is the first order you had received in relation to assembling the men—this order we have here?—A. That is the first actual order; yes.

Q. That is the first actual order that you could act under, from your superior officer, as far as assembling the men was concerned?—A. Yes.

(The telegram referred to, which is marked, without objection, "Exhibit A to the deposition of Maj. Huston," reads as follows:)

SEATTLE, WASH., August 29, 1919.

SIGNALS, Valdez:

Following telegram received from San Francisco (date): "Following telegram from the War Department, dated August 28, repeated for necessary action: 'For the purpose of giving testimony in Alaskan election contest, in compliance with act of Congress, cause to report by September 6 to commanding officer, United States Military Cable and Telegraph, at the nearest of following places: Valdez, Sitka, Fairbanks, Alaska, the following men: Charles A. Agnetti, corporal; Howard G. Clifton, private (first class); Herman Dumarce, private (first class); Rudolph Elmquist, sergeant (first class); Max H. Faust, captain; Thomas F. Griffith, sergeant; Durwood M. Hocker, sergeant; Alex A. Cott, corporal; John E. Pegues, sergeant (first class); Wm. R. Rogers, corporal; Burr M. Snyder, master signal electrician; Herman B. Stenbuck, private (first class); Elmer D. Whittle, private (first class), all members First Service Company, Signal Corps, exception Thomas F. Griffith, who is a member Quartermaster Corps stationed first section, Washington-Alaska Military Cable and Telegraph System, headquarters, Valdez, Alaska; Emil Lains, corporal; Charles R. Odle, Quartermaster sergeant; Donald H. Tyer, sergeant, members detachment Quartermaster Corps, Valdez, Alaska; and Private (first class) Wm. J. Cuthbert, First Service Company, Signal Corps, Valdez, Alaska; William T. Barr, sergeant (first class); Edward E. Beattie, corporal; James W. Boone, corporal; James M. Campbell, sergeant (first class); Horace R. Morgan, private (first class); James W. McConnell, private (first class); Louis G. Selk, private (first class), Second Service Company, Signal Corps, Fort Gibbon, Alaska; Harvey B. Conover, private (first class), Twenty-seventh Service Company, Signal Corps, Fort William H. Seward, Alaska; James H. Take, private (first class); Clement C. Stroupe, corporal; Howard G. Westcott, sergeant (first class), Second Service Company, Signal Corps, Nulato, Alaska; Philip F. McQuillan, master signal electrician; Horace W. Whitman, sergeant, Twenty-seventh Service Company, Signal Corps, Sitka, Alaska; Leo Kraft, private (first class), Second Service Company, Signal Corps, en route

Nome, Alaska: Harry Shutts, Motor Transport Corps, transferred from First Service Company, Signal Corps, Valdez, Alaska, as corporal; Richard H. L. Noaks, furloughed to Regular Army Reserve, now United States Commissioner, Cordova, Alaska. Harris.' You will issue necessary telegraphic orders to these men to report as indicated and upon completion of duty to return to their proper stations. Travel directed necessary in military service. Acknowledge. Alvord." It may be impracticable to bring all the men to either Valdez, Sitka, or Fairbanks, but you can enter into communication with the officers holding this investigation and assist them in every way possible without actually disrupting communication in Alaska. (Sig.) L.

Q. Did you assemble the men mentioned in that order or any of them in order that they might give their depositions?—A. Most of them were here in Valdez.

Q. Did you bring any from any of the stations on the trail?—A. Not after I received that order; no.

Q. Did you bring any of the men mentioned in that order into Valdez before receipt of that order in order that their depositions might be taken in that contest?—A. I think Ellison was brought in before the receipt of that order.

Q. Where had he been stationed?—A. At Gulkana.

Q. Was he brought in for that particular purpose in order that his deposition might be taken?—A. Ellison was an emergency man and authority was here to discharge him, but I had received instructions previous to this order of August 29 to hold him at Gulkana until such time as this investigation was made, and upon the request of Col. Lenoir to Judge Wickersham this man was brought in before the order was actually received in order that he might have his deposition taken and proceed to the United States for discharge.

Q. After the receipt of that order did you notify Judge Wickersham that you had received it?—A. Yes; he was furnished a copy of the order—that is, there was a telegram sent to him informing him that this order was issued—I am not sure whether he got a copy of that actual order or not, but there was a telegram, sort of a brief of the whole order, that he was furnished a copy of.

Q. Did you give him any notice of the assembling of these men pursuant to the order?—A. Yes; I called on him and told him I would be glad to get these men together if he wanted them.

Q. Did you write him any letter to that effect?—A. Yes; I wrote a letter.

Q. Have you a copy of that letter with you?—A. Yes, sir.

Q. I wish you would produce it.—A. This is a copy of the letter [producing letter.] It doesn't state in the body of the letter that it is to Judge Wickersham, but one of the originals was mailed to him.

Q. This is a letter dated August 20, 1919, from the officer in charge to blank—the name is left blank; subject, election contest and signed by yourself, with your name, and the following notation: "Copy furnished James Wickersham, Anthony J. Dimond." That is a copy of the letter you furnished James Wickersham, the contestant, is it?—A. Yes, sir.

Mr. DIMOND. We offer this in evidence and ask that it be marked "Exhibit B to the testimony of Maj. Huston."

(It is so marked without objection and reads as follows:)

#### EXHIBIT B TO DEPOSITION OF MAJ. HUSTON.

WAR DEPARTMENT,  
SIGNAL CORPS, U. S. ARMY,  
OFFICE OF OFFICER IN CHARGE, FIRST SECTION,  
WASHINGTON-ALASKA MILITARY CABLE AND TELEPHONE SYSTEM,  
Valdez, Alaska, August 30, 1919.

From: Officer in charge.

Subject: Election contest.

1. This office has received orders to assemble certain men at Valdez, Alaska, by September 6, 1919, for the purpose of giving testimony in the Alaska election contest.

2. The following list names the men and shows their present status or station: Charles A. Agnetti, Valdez, Alaska; Howard G. Clifton, Valdez, Alaska; Herman Du Marce, Fort Liscum, Alaska, under orders to proceed to Paxson, Alaska; Rudolph Elmquist, Cordova, Alaska; Thomas F. Griffith, Valdez, Alaska, under orders to proceed to United States; Durwood M. Hocker, Fairbanks, Alaska; Alex. A. Kott, Seward, Alaska; John E. Pegues, Fairbanks, Alaska, furloughed to Regular Army Reserve; William R. Rogers, Valdez,

Alaska; Burr M. Snyder, Valdez, Alaska; Herman B. Stenbuck, McCarthy, Alaska; Elmer D. Whittle, Fairbanks, Alaska; Emil Lains, Valdez, Alaska; Charles R. Odle, Valdez, Alaska; Donald H. Tyler, discharged; William J. Cuthbert, Valdez, Alaska; Harry Shutts, Valdez, Alaska; Richard H. L. Noaks, Cordova, Alaska, furloughed to Regular Army Reserve.

3. Information is desired as to whether or not you desire the men ordered away held here any longer and whether or not you still desire the men stationed on the first section, Washington-Alaska Military Cable & Telegraph System, south of Fairbanks, Alaska, who are still in the service ordered here.

HAMNER HUSTON,  
Major, Signal Corps, U. S. A.

Copy furnished: James Wickersham, Anthony J. Dimond.

Q. Did Judge Wickersham make any reply to that communication?—A. Yes; he wrote me a letter in reply to that.

Q. Have you that letter with you?—A. Yes, sir; here it is.

Q. This is the letter received by you from Judge Wickersham in reply to the one you wrote him, which has been introduced here as Exhibit "B"?—A. That is the letter received by me from Judge Wickersham; yes.

Mr. DIMOND. We offer this letter in evidence as Exhibit C to the deposition of Maj. Huston.

(It is so marked, without objection, and reads as follows:)

EXHIBIT C TO DEPOSITION OF MAJ. HUSTON.

VALDEZ, ALASKA, August 30, 1919.

HAMNER HUSTON,  
Major, Signal Corps, U. S. A., Valdez, Alaska.

MY DEAR MAJOR: For the reasons stated to you by Mr. Ritchie, in my presence, this morning, it is not my purpose to take the depositions of those members of the Signal Corps now in Valdez and mentioned in your communication of this afternoon. I wish these men voting November 5 last, at stations between Fairbanks and Nulato, both inclusive, assembled at Fairbanks so their depositions may be taken there under the terms of House Resolution No. 105 and the orders you have.

Respectfully,

(Signed) JAMES WICKERSHAM.

Q. You also addressed me a letter identical in terms with the one sent to Judge Wickersham and introduced as Exhibit B?—A. Yes, sir.

Q. And I replied to you that Mr. Grigsby did not desire to take the depositions of any of these men you have mentioned?—A. Yes, sir.

Q. Prior to the date you took charge of the first section of the Signal Corps, during the present year; July 1. I believe you said, you were never in Alaska? And had nothing to do with the Signal Corps of Alaska before that time?—A. No; absolutely nothing.

Q. Referring again to Exhibit B, I will ask you to state how many of the men therein mentioned were at Valdez at the time you wrote the letter, and give their names.—A. Charles A. Agnetti, Howard G. Clifton, Herman Du Marce was at Fort Liscum.

Q. How far is that from Valdez?—A. Three miles. Thomas F. Griffith, William R. Rogers, Burr M. Snyder, Emil Lains, Charles R. Odle, William J. Cuthbert, and Harry Shutts. In making this statement I will have to put a reservation upon it—the official station of all of these men was in Valdez, but it is possible that Shutts or Rogers may have been out on the trail on some temporary duty. I don't recall at that time whether they were actually in Valdez or not; but their official station was in Valdez.

Q. If they were not in Valdez at that time, they were probably in Valdez very shortly afterwards, I suppose?—A. Yes, sir; they were.

Q. You have no jurisdiction over that portion of the system between Fairbanks and Nome?—A. Absolutely none.

Q. Or between Fairbanks and St. Michaels?—A. No.

Mr. DIMOND. That's all.

Cross-examination by Mr. RITCHIE:

Q. The order which you received to assemble these men came after Judge Wickersham's arrival?—A. Yes, sir.

Q. After the first hearing, in fact?—A. I don't know when the hearing took place.

Q. It came after the 23d of August?—A. Yes; it came after the 23d of August.

Q. Maj. Huston, is it not true that some time after the first hearing on the 23d of August, which was the date on which Mr. Tyer was interrogated that caused some trouble which we all know about, that several days after that, at your request, I think, but I am not sure, Judge Wickersham and I called at your office in the Government building here in Valdez and we discussed generally the proposition of having these men testify, and Judge Wickersham told you that he did not care now to do it because, on the advice of his friends, he was afraid that a good many of them at least would testify that they had voted for him, although the whole community knew that probably every one of them had voted for Mr. Sulzer; that you then told him that you had talked with some of the boys and you did not believe they would do that; that you believed under oath they would tell the truth; that I then interrupted, or took part in the conversation and said: "I have no doubt you believe that, Major, and I think some of the boys will tell the truth, but my opinion is that a good many of them, some of them, at least, will not do so," and I have advised Judge Wickersham not to bring these men in and ask them how they voted, because it has been talked all over the town for several days that nearly every one of them will swear that he voted for Wickersham when we are absolutely morally certain that nearly every one of them voted for Sulzer, and our action in this matter is influenced largely by the fact that Mr. Tyer testified on last Saturday that he voted for Wickersham and none of us believes he did, because every influence in the world, including his own political predilections would have induced him to vote for Mr. Sulzer, and that is the reason why we do not now ask these men to come in, although you have offered to bring them in—Isn't that in substance the conversation that took place?—A. Yes; but it was in your office instead of mine.

Q. I beg your pardon, you are right—it was in my office—you came over there?—A. I came over there, yes, sir.

By Mr. DIMOND:

Q. Are you still of the opinion that these men would tell the truth if they were questioned as to whom they voted for?—A. Yes, sir.

Q. You are quite well acquainted with those men, whose names appear on Exhibit B?—A. Yes, sir.

Q. Have you noticed anything about their conduct or have you heard anything concerning their character which would in any manner lead you to believe that they are so depraved that they would commit perjury?—A. No, sir, I certainly have not.

Q. You think they are a pretty decent bunch of men, do you?—A. I do.  
(Witness excused.)

HAMNER HUSTON.

Subscribed and sworn to before me this 17th day of October, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public in and for Alaska.

Commission expires May 19, 1921.

DEPOSITION OF A. J. DIMOND.

A. J. DIMOND, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

I desire to state in the most emphatic manner possible that I had nothing to do with this fight between Mr. Wickersham and Thomas Selby. As I recollect it the circumstances surrounding the fight that I know of are about as follows: A few minutes before the fight I had been talking with Mr. Selby, who was with Tom, at the corner of Alaska Avenue and McKinley Street and I left him and went down McKinley Street northerly toward my home. Shortly after I left, I probably wasn't over 20 or 30 feet, I glanced across the street and saw Judge Wickersham coming out of Maj. Huston's office, which was on the opposite side of McKinley Street and diagonally across from the corner at which I saw Mr. Selby. I went on down the street and when about half way down the block I should judge, I don't recollect what particular spot it was, my attention was attracted by certain people staring up the street very intently,

on the other side; Mrs. Austin was one of them; she came out and there was one or two more, I think two, but who they were I don't recollect. I turned around and at that time Judge Wickersham was just getting up, apparently he had been lying on the ground and had been knocked down. I thereupon went back immediately to the scene of this fight and took the two Selbys by the arm and told them to go home. That is everything that I had to do with it. I certainly was not within 100 feet of them at the time the fight occurred and I didn't see a single blow struck. I know no blows were struck after I turned around because I kept my eyes fastened on the group all the time until I got back there and it was with considerable amazement that I heard Mr. Wickersham testify or start to testify that he thought I was there at the time the fight occurred. That is all.

Questions by Mr. REED:

Q. There was nothing said at the time between you and the Selbys, either Mr. Selby or his son, that would lead you to believe that they contemplated an assault, by word or action?—A. There was not; no. Knowing what I know now I might have thought something of the remark Mr. Selby made. Selby said to me, "I don't like the way that (using a certain expression) talked to my daughter," and I said, "Oh, you don't want to pay any attention to that," and I talked about something else; and that is the only thing that was said; and, of course, I had heard other expressions like that before without leading to anything, and I didn't think that meant any fight at all, because I have heard many men say that in the past without amounting to anything further.

Q. From the feeling displayed at that time or anything said you didn't infer that any assault would be contemplated by them, either by Mr. Selby or his son, Tom?—A. No; Tom didn't say a word to me at all; I talked to Mr. Selby.

Q. Did you disabuse Mr. Selby's mind when he made the statement as to Judge Wickersham saying anything insulting to Mrs. Tyer?—A. No; he didn't use the word "insult" to me at all. The conversation was about as I stated. He said, "I don't like the way that man treated Ruth," and I said, "Oh, you musn't pay any attention to that," and I talked about something else.

Q. Did you disabuse Mr. Selby's mind as to Judge Wickersham mistreating her?—A. No; I didn't say anything else than what I have said; that is all the conversation we had on that particular subject.

By Mr. RITCHIE:

Q. You turned this part of the conversation with Mr. Selby aside with that remark because you yourself had not seen anything that called for excitement or resentment in the examination of Mrs. Tyer, did you not?—A. Well, I should say it called for resentment; yes. I thought Judge Wickersham's manner toward Mrs. Tyer, especially the closing part of it, was rather brutal. He stated, as I recollect, that he was going to keep her there until she did testify, and I felt some resentment at that time. I didn't think it was fair treatment of the girl at all, particularly in view of her condition; but I didn't feel wrought up enough about it to try to fight Judge Wickersham.

By Mr. REED:

Q. You don't know whether Judge Wickersham had knowledge of her condition at that time?—A. No; I do not.

By Mr. RICHIE:

Q. As a matter of fact, don't you think, Mr. Dimond, that the only resentment in Mrs. Tyer caused by her examination was from Judge Wickersham's statement that he intended to keep her here to testify later, when she had all her arrangements made to leave the next day?—A. I think that was the principal reason.

Q. Don't you think that was all she became angry about?—A. No; I don't think so. I think Judge Wickersham's attitude toward her generally was somewhat brutal—I will be very frank about it—I thought he was rather browbeating her.

Q. As a matter of fact, isn't it true that Judge Wickersham and Mrs. Tyer were smiling at each other most of the time?—A. They were at the beginning, but toward the end I don't recollect that that was the case. I think at the



beginning she smiled several times. However, I was sitting where I didn't have a very clear view of Mrs. Tyer's face and I don't know that I watched her very particularly.

(Witness excused.)

ANTHONY J. DIMOND.

Subscribed and sworn to before me this 14th day of October, 1919.

[SEAL.]

FRANK J. HAYES,  
*Notary Public in and for Alaska.*

Commission expires May 19, 1921.

DEPOSITION OF H. B. SELBY.

H. B. SELBY, a witness called in behalf of the contestee, being by the notary first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. DIMOND:

Q. State your name and place of residence.—A. H. B. Selby; Alaska Avenue, Valdez, Alaska.

Q. How long have you resided at Valdez?—A. Four years; I think it was four years in August.

Q. In what business are you engaged?—A. Publisher.

Q. Have you been in that business ever since you came to Valdez four years ago or a little more than four years ago?—A. Yes, sir.

Q. Do you know James Wickersham, who is the contestant in this contest between Wickersham and Grigsby?—A. Yes, sir.

Q. Were you at Valdez, Alaska, on the 23d of August, 1919?—A. Yes, sir.

Q. Did you see Judge Wickersham on that day—to refresh your memory I will state that that was the day upon which the depositions of Donald H. Tyer and Mrs. Tyer were taken in this case?—A. Yes, sir; I saw him.

Q. Mrs. Donald H. Tyer, whose deposition was then taken in this contest at the instance of Judge Wickersham, is your daughter, is she not?—A. Yes, sir.

Q. How long has she resided in Valdez?—A. Four years on the 3d of October.

Q. She and Mr. Tyer left here how long ago?—A. I can't tell you the exact date.

Q. It was some time about the 1st of September?—A. Yes. She was married the day before the election of 1918.

Q. Did you ever ask Mr. Tyer to vote for anybody?—A. No, sir; I never did; I never discussed it with him, only just in talking.

Q. I refer particularly to the Delegate election of 1918 in which James Wickersham was a candidate on the Republican ticket and Charles A. Sulzer on the Democratic ticket—did you ever discuss that election with Mr. Tyer?—A. No; if I did, I don't remember it; that is, I never discussed it in the way to ask him how he was going to vote.

Q. Did he ever tell you how he voted?—A. No, sir; he never told me—in fact, I never pay any attention how any of the family vote.

Q. You don't discuss politics?—A. We don't discuss politics much at home unless some one drops in—not with the family; we never discuss them in the family.

Q. Do you know how your wife and Mrs. Tyer voted at that election?—A. Well, no; I don't, to tell you the truth; I never positively heard my wife say, but I would suspect, if you want my suspicions, that she voted for Mr. Sulzer—I don't know that she voted. Did she vote?

Mr. DIMOND. I don't know that either.

Mr. REED. I think the record shows that both Mr. and Mrs. Tyer voted.

Q. Have you a son named Thomas Selby?—A. Yes, sir.

Q. How old is he?—A. He is 21 now; he was 21 last month.

Q. Where does he reside?—A. At home with me.

Q. How long has he been at home?—A. He came home some time in August.

Q. Where had he been before that time?—A. He had been in France.

Q. With the military forces?—A. With the American Expeditionary Forces.

Q. With the United States Army in France?—A. Yes, sir; he was an artilleryman.

Q. How long had he been in the service altogether?—A. I think somewhere around 18 months.

Q. Did you witness or see any fight or any part of a fight between him and Judge Wickersham on the 23d of August?—A. Yes; I did. I saw the latter part of it.

Q. Tell what you saw of this fight.—A. Well, I came out of the store and saw Mr. Wickersham hit Tom and knock his hat down over his eyes, and then they mixed up pretty lively, and he backed Tom and got him down, and he started to jump on him, but Tom rolled over and got up, and they squared a round or two there—I don't know just how long—and then I saw Tom, as near as I can recollect, I think he hit Wickersham on the right side of the cheek, but I couldn't tell you how often or how many times, but he struck him, and I saw Wickersham fall, and he got up and started—Wickersham got up and ran at Tom again and then clinched, and Tom broke loose from him and hit him again, and that is all. He hit him on the jaw, on the right jaw, because Tom is left-handed. It was a pretty lively mix up for a little while, and they shifted positions so I couldn't see very plainly.

Q. After he hit him the second time what effect did that have on Judge Wickersham?—A. It knocked him down, and he got up then and took a couple of steps and fell again. I judge he took two steps or three and fell, and Tom stood back, and Mr. Wickersham got up and went to brushing his clothes off.

Q. That was all of the fight?—A. That was all I saw.

Q. Did you take any part in it?—A. Not a particle.

Q. Did you kick Judge Wickersham?—A. No; I had nothing to do with it whatever. I took hold of Tom at one time, and he gave me a flip and tore my shirt and threw me off the sidewalk, and I thought it was time to quit.

Q. How old are you?—A. I am 52 now.

Q. You took absolutely no part in this whatever?—A. I took no part in it.

Q. And if Judge Wickersham said that you hit him or kicked him when he was down, he is mistaken?—A. There was no one within 10 feet of him.

Q. Did Tom kick him after he was down?—A. No; he was farther than from here to the stenographer, at least 10 or 12 feet from him.

Q. Were there any other witnesses to that fight?—A. Mr. Hoodenpyle was there and saw the whole business. He saw it start; I didn't. I didn't see it start, because I was in the store. Mr. Wickersham came out from the Signal Corps office before I thought he was coming. I went into Blum's store a minute, and when I came out Tom had met him. I don't know what the conversation was or who struck the first blow or anything about it. I asked Tom, and he said they both struck at the same time.

Mr. REED. We object to that as incompetent, irrelevant, and immaterial.

A. (Continuing.) That is only hearsay. Mr. Hoodenpyle, you could probably get his affidavit—he would tell you all about it; he heard the conversation, and everything.

Q. Was I present at the time the fight occurred?—A. You were nowhere around. You came up after it was over and told me to go home and told Tom to go home. You were nowhere around at the time of the fight, or previous to that, that I saw.

Mr. DIMOND. That's all.

Cross-examination by Mr. REED:

Q. Now, in regard to your daughter voting, you say you never heard her discuss how she voted?—A. Never heard her say; didn't know she voted.

Q. You stated you suspected she voted for Sulzer but don't know?—A. I don't know.

Q. That is true, you suspect she voted for Mr. Sulzer?—A. I suspect if she voted; I am pretty near certain she voted for Mr. Sulzer.

Q. And in regard to Mr. Tyer—A. I never heard him say.

Q. You never heard him say whom he voted for?—A. No; only his politics.

Q. You never heard him discuss the political situation here at all?—A. Not to my knowledge, no; he very seldom talked politics.

Q. Either before or after the election?—A. No; not that I remember of. After the election I never talked to him at all about it.

Q. Your paper was antagonistic in the election to Judge Wickersham?—A. It was only antagonistic in a way that I got my support from the other side. I offered Mr. Wickersham the use of our columns, and he said he didn't need them. I saw Judge Wickersham and had a talk with him on the boat, and Wickersham said the paper was antagonistic to him, and I said, "How do you know it is? We have only taken hold of it a short time ago, and have never had any business with you," and I said, "You can buy all the space you want in it," and he said,

"I am too well known in the Territory to have to buy space," and I said, "If that is the case, I will have to depend on getting my support from the other party," and I said, "If the paper isn't large enough for you, we will enlarge it for you, provided you pay for it," and we discussed further a few things about Col. Richardson, and that is about the extent of the conversation.

Q. Prior to November 5, 1918—that is, prior to the election of November 5, 1918—your paper supported Sulzer rather than Judge Wickersham?—A. Yes, sir.

Q. And you say that neither before nor after November 5 did you hear Mr. Tver discuss how he voted?—A. Not to my knowledge; not to my remembrance.

Q. Did you ever hear him state he had voted for Judge Wickersham?—A. No.

Q. Did you ever hear him say anything indicating that he was friendly to Judge Wickersham and his candidacy?—A. The only thing I ever asked Don was how his father voted. He was talking something about Senator Reed, of Missouri; he was talking about him and telling about his father voting for him, and I says, "How does that come? I thought your father was a Democrat," and he said, "No; my father generally votes for the man he wants.

Q. So you never heard him say as to whether he voted for Wickersham or Sulzer or anything indicating how he did stand as to the respective candidacy of those two men?—A. Never heard him say.

Q. Now, in regard to this fight, neither you nor your son, Tom Selby, were present at the hearing that preceded it?—A. No.

Q. And so anything that either one of you heard in regard to this hearing and what happened there would have been hearsay?—A. Hearsay; yes.

Q. Had you gone home from the Prospector office and had your son gone home?—A. Yes, sir.

Q. And had either one of you seen Mrs. Tver?—A. Yes; she came home.

Q. Did she state to either one of you that Wickersham had insulted her?—A. She said the judge accused her of not telling the truth and told her he was going to keep her here until she did tell the truth.

Q. She intimated that Judge Wickersham said she hadn't told the truth?—A. Yes; that is what she said; she was crying and very hysterical.

Q. From that fact both you and your son concluded that he had insulted her while she was on the witness stand?—A. Naturally we did.

Q. And you both felt very much aggrieved and had a good deal of feeling toward Judge Wickersham by reason of that fact?—A. Yes, sir.

Q. And did she say that Judge Wickersham had insulted her or treated her brutally in any other respect than that?—A. No; only that he had held her there until she was exhausted and not able to give testimony and physically unfit. That morning I told her not to go to that hearing, that I would get a certificate from the doctor that she was not able to go; she had had bad spells and was in a delicate condition, and I said, "In all probability you will get tangled up down there, and you can't stand very much hard language, and the first thing you know you will go all to pieces," and she said she wouldn't go. I said, "I don't think they will require you to go, if the court finds out the condition you are in, and knowing that it is liable to injure your health they won't ask you to go." and the next thing I knew I went home, Tom and I, and we were eating dinner, and she came in and was very hysterical, and she fell over on the couch.

Q. Did this occur at your home?—A. Yes; at my home. And Don was crying and cursing; he said, "My God, what am I going to do? I can't do anything without being court-martialed," and he says, "What am I going to do?"

Q. Did he feel also that Wickersham had insulted his wife?—A. Yes; he thought he had.

Q. Judging from what he said and his actions, you thought naturally or felt that Judge Wickersham had insulted his wife?—A. Naturally; if your wife or any other man's wife came home and said a man had insulted her, you wouldn't stop to investigate, and Tom jumped up and ran from the table and he got half way down the street before I caught him, and I said, "What are you going to do?"

Q. Where did you catch him?—A. At about Meals's; and he says, "I am going down to pull that fellow out, wherever he is, and beat his head in."

Q. Tom said that?—A. Tom said that, and I says, "Tom, you had better let me do that" and he says, "Pa, you keep out of this; you have nothing to do with it," and he was pretty indignant, so I came on down with him and we stood out there on the corner about 5 minutes.

Q. Did Mr. Dimond come up about that time?—A. No; Mr. Dimond went past and went down toward the Tillikum Club.

Q. In the direction of his home?—A. Yes; as far as I saw he went down that way.

Q. You had a short conversation with Mr. Dimond?—A. All I asked him was, where Wickersham was.

Q. Do you remember saying to Mr. Dimond, "I don't like the way that son of a —— treated my daughter"?—A. Yes; I remember that.

Q. And then Mr. Dimond went away?—A. Mr. Dimond turned and walked away.

Q. And then what happened next?—A. I went into the store—waited 3 or 4 minutes there on the corner, but Wickersham had gone into the Signal Corps office.

Q. Just before you went into the store, did you see Wickersham come out?—A. No; he was inside—I could see him through the window, in the Quartermaster Corps office—he was sitting there talking to the major.

Q. Where was Mr. Hoodenpyle at this time?—A. I found out afterwards that he was upstairs in the window, right over.

Q. Was there anybody on the street besides yourselves, standing on the corner?—A. Not that I saw.

Q. And you saw the situation pretty clearly at that time?—A. As clear as a man could.

Q. And you saw Judge Wickersham at that time over diagonally across on the other corner?—A. I saw the situation as clearly as a man could see from where I was.

Q. Where was Judge Wickersham?—A. He was inside the building.

Q. Did you see him across the street?—A. No; I came out and he and Tom were fighting—I came out of Blum's store.

Q. Did you see him come across the street, walking across the street?—A. I don't remember seeing him coming across the street.

Q. Were you in the store when the fight first started?—A. Yes.

Q. You didn't see that part of it?—A. No; and I didn't hear the conversation.

Q. You don't know what was said or what caused the first blow to be struck?—A. Only by hearsay.

Q. Only from what somebody told you?—A. Only by what Tom told me.

Q. And you never heard Judge Wickersham say anything to Tom—you never heard any of the conversation between him and Tom?—A. No; I was in the store.

Q. When you came out, the fight was going on and blows were being struck?—A. Yes; Tom wasn't saying anything but the Judge was cussing all the time he was fighting, like a man will. He was boring in with both hands and every time he hit he would say something—I don't know what it was, whether it was an oath or talking to himself.

Q. When you caught up with your son on the corner near this office, you said, "Let me attend to this," and Tom said, "No; I will do that myself"; is that correct?—A. No; I asked Tom what he was going to do and he said he was going down—I don't just remember the words—and find him and pull him out, and I said, "Let me do that."

Q. Did he say what he was going to do other than that?—A. No.

Q. Did he refer to him by any name at all?—A. No; he was cooler than I was about it because I was mad and he wasn't.

Q. When you came out of the store was any one around besides you and Judge Wickersham and Tom?—A. No; not until after it was all over, then Mr. Dimond came up.

Q. He was the first one, was he?—A. I think so, and then I think Mr. Casler came by and told us to cut it out and go home and behave ourselves; I don't remember whether it was Mr. Dimond or Mr. Casler told us to go home and behave ourselves.

By Mr. DIMOND:

Q. You spoke about your daughter's condition; as a matter of fact she was heavy with child?—A. Yes, sir; she was very heavy with child, and she was quite hysterical.

Q. Judge Wickersham in his testimony said something about a conspiracy to kill him; do you know anything about any conspiracy that existed to kill him?—A. No.

Q. He testified, if I recollect, that his friends advised him it would be unsafe to proceed with the taking of the depositions of the Signal Corps men because

he might be killed. Is there any truth at all as far as you know in that statement?—A. I think that is all nonsense.

Mr. REED. We object to that; that would be a matter of opinion.

By Mr. REED:

Q. You spoke of Mrs. Tyer's condition—you don't know anything about Mr. Wickersham knowing anything about her physical condition being different from ordinarily, do you?—A. A man could see it very clearly.

Q. But you don't know that he had any knowledge of what her actual condition was?—A. I can't say as to that.

Witness excused.

H. B. SELBY.

Subscribed and sworn to before me this 17th day of October, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

Commission expires May 19, 1921.

DEPOSITION OF CHARLES E. BUNNELL.

CHARLES E. BUNNELL, called and sworn as a witness in behalf of the contestee, testified as follows:

Direct-examination by Mr. DONOHUE:

Q. Will you state your name and residence?—A. Charles E. Bunnell; my present residence is Fairbanks, Alaska.

Q. What official position do you hold in Alaska?—A. I am district judge, with headquarters at Fairbanks.

Q. In the fourth judicial division?—A. The fourth judicial division.

Q. How long have you been district judge in the fourth judicial division of Alaska?—A. As I remember I was confirmed by the Senate on the 5th of January, 1915, and I took the oath of office on the 12th of January, 1915.

Q. And have you since that time been the resident judge in the fourth judicial division, Territory of Alaska?—A. I have.

Q. Are you acquainted with the contestant, James Wickersham?—A. I know him.

Q. Were you acquainted with Charles A. Sulzer in his lifetime?—A. Yes.

Q. Are you acquainted with George B. Grigsby, the present contestee?—A. Yes.

Q. I call your attention to House of Representatives Document No. 74, Sixty-sixth Congress, first session, which contains the contest filed by James Wickersham in the House of Representatives of the United State in the month of May, 1919, contesting the election of Charles A. Sulzer as Delegate from Alaska to Congress and particularly call your attention to section 14 of said contest as the same appears commencing at the top of page 15 of this printed document and ask you if you have read the said section 14 referred to?—A. I have read it.

Q. In this section Mr. Wickersham makes the allegations that the United States commissioner in the Forty-ninth district illegally established certain voting precincts which deprived the voters of Jack Wade Creek precinct from voting at the election held for Delegate to Congress in the year 1916; will you please state what you know in regard to this matter? I hand you the document and ask you to refer to section 14.—A. Your question refers to the election for Delegate in November, 1916; I think you meant November, 1918.

Mr. DONOHUE. Yes; I did.

A. You call my attention to Jack Wade Creek voting precinct. The paragraph also refers to Chicken precinct. My entire information on this subject comes to me in the form of letters which are signed by one Charles E. M. Cole, and I can read those letters and my replies thereto. I have no objection to the letters becoming exhibits, providing I can have the privilege of making a copy of the communications for my files.

Mr. DONOHUE. You may do that.

The WITNESS. I will read the letters if you wish.

Mr. DONOHUE. Yes; I wish you would.

Mr. REED. We will reserve exceptions to the testimony. I don't know anything about this situation and don't know whether it is competent at this time. I just make a formal objection to the relevancy, competency, and admissibility of this evidence at this time.



Mr. DONOHUE. If after you read these letters you will introduce the originals as exhibits to be attached to your deposition, the stenographer will make the copies you desire for your files.

The WITNESS. Very well. On the 2d of August I left Fairbanks to come to Valdez to hold court in this division for Judge Brown and was not in my division until the 22d day of October. I left Valdez on the 18th of October and went from here to Fairbanks. On the 24th or 25th of November I received this communication: "Jack Wade, Alaska, October 12, 1918. Judge C. E. Bunnell, fourth division court"—

Mr. DONOHUE. We ask that this letter be marked "Exhibit A" to the deposition of Charles E. Bunnell.

(The letter is so marked, without objection, and is read in full by the witness. The original of such letter, marked "Exhibit A" to the deposition of Charles E. Bunnell is attached hereto and made a part hereof.)

The WITNESS (continuing). In the same mail I received this letter: "Jack Wade, Alaska, October 24, 1918. Hon. C. E. Bunnell; dear sir"—

Mr. DONOHUE. We ask that that letter be marked "Exhibit B" to the testimony of Charles E. Bunnell.

(The letter is so marked, without objection, and is read in full by the witness. The original of such letter, marked "Exhibit B," to the testimony of Charles E. Bunnell is attached hereto and made a part hereof.)

The WITNESS (continuing). I will state that Franklin referred to in that letter is the headquarters of the Forty-mile precinct where Commissioner John J. Donovan is located. This letter was accompanied by the following protest: "A protest. To Hon. C. E. Bunnell"—

Mr. DONOHUE. We ask that that paper be marked "Exhibit C" to the deposition of Charles E. Bunnell.

(The paper is so marked, without objection, and is read in full by the witness. The original of such paper marked "Exhibit C" to the deposition of Charles E. Bunnell is attached hereto and made a part hereof.)

The WITNESS. All of the foregoing that I have read were received in the regular course of the mails on about the 24th or 25th of November.

Q. Your Exhibits A, B, and C are under various dates in the month of October, 1918—where were you during that month and the month of September previous?—A. I was in the third judicial division all the time from August 4 until October 20, the day I reached Paxson's on my way back to Fairbanks.

Q. In the ordinary course of travel, what would be the distance from where you were in the third division to Jack Wade Creek?—A. I would say approximately, going from here to Fairbanks, Fairbanks to Circle overland, Circle to Eagle by the trail, and Eagle to Jack Wade, about 900 miles.

Q. And the only course of travel at that season of the year would be by walking over the trail?—A. Yes; by walking or by automobile to Fairbanks and by horses and dog teams.

Q. Now, did you reply to any of these communications which you have just read?—A. I did.

Q. Have you a copy of that reply with you?—A. I have.

Q. Will you read that copy?—A. Yes. Having received them all together on about the 24th or 25th of November, I made this reply. You will understand that I did not receive them until some 19 days after election. The election was held on the 5th of November. My reply was as follows:

Mr. DONOHUE. I ask that this letter be marked "Exhibit D" to the deposition of Charles E. Bunnell.

(The letter is so marked, without objection, and is read in full by the witness. The original of such letter, marked "Exhibit D" to the deposition of Charles E. Bunnell, is attached hereto and made a part hereof.)

Q. You mailed that letter to Mr. Cole, did you, at Fairbanks?—A. I did.

Q. Did you receive any further communications on this subject?—A. Yes.

Q. Will you please read them?—A. I received a letter, I think, about the 1st of February, possibly not until the middle of February, 1919, dated "Jack Wade, Alaska, Jan. 1, 1919."

Mr. DONOHUE. We ask that that letter be marked "Exhibit E" to the deposition of Charles E. Bunnell.

(The letter is so marked, without objection, and is read in full by the witness. The original of such letter, marked "Exhibit E" to the deposition of Charles E. Bunnell, is attached hereto and made a part hereof.)

Q. What is the distance by ordinary travel between Fairbanks, the seat of your court and your residence in your division, and Jack Wade Creek?—A. I can't tell the exact distance, but I would say, Mr. Donohoe, that it is approximately from 550 to 600 miles—it may be 150 miles more than that.

Q. That is all overland travel?—A. It is all overland travel.

Q. Since you have been judge in the fourth division, have you ever been up to Jack Wade precinct?—A. I have not. I have been only as far as Eagle, and that by boat.

Q. And that is about how far from Jack Wade Creek?—A. I would say about 80 miles.

Q. When were you last at Eagle, if you remember?—A. In 1916, I think. I have been there but once only since I have been judge at Fairbanks.

Q. Did you receive any further communications from Mr. Cole on this subject?—A. I received another communication, which is undated. As a matter of fact, I received this before I received his letter under date of January 1, 1919. The one I now have in my hand I received on the 16th of December, 1918. It generally covers the protest; seems to be a copy of the protest. The letter begins—

Mr. DONOHOE. We will ask to have that letter marked "Exhibit F" to the deposition of Charles E. Bunnell.

(The letter is so marked, without objection, and is read in full by the witness. The original of such letter, marked "Exhibit F" to the deposition of Charles E. Bunnell, is attached hereto and made a part hereof.)

The WITNESS. How it happened that this did not arrive until December I do not know.

Q. Did you answer these last communications?—A. Yes.

Q. Have you a copy of that letter which you wrote?—A. I have. I answered the letter of January 1, 1919, as soon as it was received, which seems to be February 24, 1919—my letter is dated Fairbanks, Alaska, February 24, 1919.

Mr. DONOHOE. We will ask that that letter be marked "Exhibit G" to the testimony Charles E. Bunnell.

(The copy of letter is so marked, without objection, and is read in full by the witness. The original carbon copy of such letter, marked "Exhibit G" to the deposition of Charles E. Bunnell, is attached hereto and made a part hereof.)

The WITNESS (after reading above exhibit). Since which time I have heard nothing further from Mr. Cole. That covers all the knowledge that I have relative to section 14; I believe it is.

Q. I call your attention to section 15 of Mr. Wickersham's contest against Charles A. Sulzer for a seat in Congress, commencing at the bottom of page 16 in House Document No. 74, and ask you to make such reply as you see fit to the allegations contained in section 15.—A. Well, in section 15 Mr. Wickersham charges that I am a Democrat and I admit that, of course; he states that I am a violent political partisan of the contestee. I am not a violent political partisan; a Democrat, however. Mr. Wickersham also states that each and every one of his commissioners (referring to myself) engages in partisan politics at each biennial election for Delegate to Congress from Alaska and that the entire election machinery is controlled by me through my commissioners for political ends. This statement is not correct. Referring to the matter of Mr. Donovan's action as commissioner in the Forty Mile precinct I have nothing further to say about that than what I have already said and what is contained in the letters. I know nothing further about that. It is also stated that the voters appealed to me by a protest in writing, but that nothing was done by the said judge (meaning myself) or right the wrong. I would say in reply to that that the communications were not received until long after the election was held, and there was nothing that I could do at that time to assist them in the matter which they had called to my attention—the election had already been held. There is also a statement that some fraudulent action was had by the commissioner in the election districts wherein Cripple Creek, Fish Creek, and other voting precincts in the fourth division are situated. About that I have no knowledge at all. I don't know where the Fish Creek precinct is unless it is a precinct somewhere about 20 miles from Fairbanks. The Cripple Creek precinct is in the Innoko country as I now recall. What the conditions were there I don't know.

Q. How far is the Innoko country from Fairbanks, your residence, approximately?—A. By the river it is about 1,350 or 1,400 miles and by the winter trail I would say about 650.

Q. Have you previous or since the election of 1918 received any complaints from any of the voters of any other precinct than that of Jack Wade Creek?—A. No, I have not; the only communications that I have received on that subject were from Mr. Cole, as I have stated.

Mr. REED. Is Jack Wade precinct the same as Forty Mile precinct?

A. The Forty Mile precinct as referred to in the record is the Forty Mile recording precinct where Mr. John J. Donovan is United States commissioner. The Chicken Creek precinct and the Jack Wade Creek precinct are voting precincts within the Forty Mile recording precinct.

By Mr. DONOHUE:

Q. Did the clerk of your court, the clerk of the district court for the fourth division, in sending out election supplies to the various commissioners throughout your division for the election of the year 1918, accompany them with a letter which met with your approval?—A. Yes, the clerk of the court, prior to sending out the election supplies, prepared a letter which he submitted to me and which met with my approval. It came about in this way: When I went to Fairbanks in 1915, fund C of the court was \$4,500, or thereabouts, in debt. Of that amount nearly a third was for election expenses for 1914; in fact the clerk had all of these vouchers for election expenses as sent in by the judges of the election, but very few had been paid. We had to secure authority from the attorney general to pay those expenses outside of our regular method or at any rate to arrange so that it could be paid.

Q. Is fund C a fund at each of the four district courts of the Territory of Alaska to pay the contingent expenses of the court and also the expenses of holding the elections in Alaska?—A. It is.

Q. And how is that fund created; what is paid into that fund to create it?—A. Earnings from the docket fees and fines and forfeitures.

Mr. DONOHUE. I would ask that that letter sent by the clerk to the commissioners, to which you have referred, be marked "Exhibit H" to the deposition of Charles E. Bunnell.

(The said letter is so marked, without objection, and read by the witness in full. The letter is attached hereto and made a part hereof, being marked "Exhibit H" to the deposition of Charles E. Bunnell.)

The Witness. The letter was prepared by Mr. Clark and we had in mind trying to keep the expense down within reasonable limits. The returns of preceding elections showed that in some places there were only three or four votes cast and the expense might run anywhere from \$30 to \$40 for posting notices and election judges and fund C has been so short that I felt that some effort should be made to keep the expense within bounds. That exhibit is a certified copy of a letter from the files of the clerk of the court at Fairbanks—a certified copy of his copy.

Q. This last letter that you have read, which is Exhibit H to your deposition—was a copy of that letter sent to each of the commissioners in your division?—A. The clerk of the court so informed me.

Q. In section 15 of Mr. Wickersham's contest he refers to you as judge, making your appointments of commissioners in your division, the fourth judicial division of Alaska, for political advancement of your party. What have you to say as to any changes you may have made in the commissioners in your division and the appointments of their successors?—A. Well, in the first place, it is very difficult to secure commissioners, and my first idea is to appoint men who are qualified to perform the duties; that is the first consideration. I do experience some difficulty in finding men to take these positions in out of the way places. I have appointed some Republicans and I have appointed some Democrats. It is not a question of politics as to who is appointed. I would say that when I first went to Fairbanks I at once received several resignations from commissioners who were Republicans. George W. Albrecht, Esq., of Iditarod, was United States commissioner and deputy clerk of the court there. He promptly resigned, stating in his resignation that he was a Republican and he presumed I wanted to appoint a Democrat. I appointed a Democrat. Mr. E. Coke Hill, of Ruby, was United States commissioner there. He resigned, stating that he was a Republican and presumed I wanted to appoint a Democrat. He is now assistant district attorney in the fourth division. I appointed a Democrat. And so it has been—some Democrats have been appointed. Some of the old commissioners are still in office who were in office when I went there—one of them, Dr. Green, who is commissioner at McGrath. Joseph C. Dean is the commissioner at

Tanana. I have been informed that he is a member of the Republican divisional committee of the fourth division. I have never asked him about it. Mr. Griffin, one of the old commissioners, is now the commissioner at Richardson. I removed Mr. Griffin from office at one time and appointed another man and some time ago, a year or more, I think, I reappointed Mr. Griffin. He had neglected his records. Several of the commissioners went away, left their offices, and it became necessary to appoint others; among them are U. G. Myers, who was formerly commissioner at Eagle and had been commissioner for several years. Another was Frank Reynolds, of Circle. Samuel Marsh, of the Chandlar, had been away from his office, I guess, two years when I went there. It is very difficult to secure commissioners in the out of the way places. Other commissioners I have removed for cause, and the reasons were, inattention to their duties and neglecting the affairs of their offices and whether they were Republicans or Democrats I don't know. I have just appointed Mr. Daniel Webster as a commissioner in the Koyukuk. What his politics are I don't know. I think it was three years ago or four years ago that he ran on the same ticket with Wickersham, on the same ticket that Wickersham did, but as I said before, it is not a question of politics, it is a question of getting good men.

Q. Have you ever removed any of your commissioners from office because of their failure to support a Democratic nominee at the election?—A. No, sir; I have not. I don't know who they support. I have an idea how some of them vote, but exactly how they vote I don't know.

Q. And I understand you to say, that in making these appointments you are not controlled at all by political faith of the man that you appoint as commissioner?—A. Well, I will say that I am not entirely controlled by his politics, and I will say further that in cases such as that of Mr. Albrecht and Mr. Hill, who resigned, themselves suggesting that they were Republicans and presuming that I wanted to appoint Democrats, that I appointed men whom I believed to be Democrats, and when I created the Tolovana and Nenana precincts I appointed men whom I believed were Democrats. I have never had the question raised before except in this contest proceeding.

Q. Judge, how do you happen to be in Valdez at this time?—A. When I was at Holy Cross, on my way to Fairbanks from Flat, where I had been holding court, and on the 20th of August, I think it was, of this year, I received a wire from the clerk of the court at Valdez requesting me to come here in the third division to hold terms of court that had been called at Seward and at Cordova, the clerk informing me that he wired me at the request of Judge Brown, and I have been in this division holding court ever since the 8th day of September, 1919.

Q. Is there anything else you wish to state?—A. There is nothing further but I recall.

Mr. DONOHUE. That will be all then.

Cross-examination, by Mr. REED:

Q. In regard to the Fortymile precinct, do you know how many voting precincts were created in that recording precinct?—A. In 1918, you mean?

Q. Yes.—A. I do not. The record in the office of the clerk of the court would show that, or in the office of the secretary of the Territory.

Q. How many do you know of? Was Jack Wade precinct one of the voting precincts?—A. That I can't tell you.

Q. You don't know the names nor the number of the voting precincts that were created by Commissioner Donovan within his recording precinct?—A. No; I do not. That information I could have secured at Fairbanks, but I did not.

Q. Do you know as to the population of that particular voting precinct remaining practically and proportionately the same during a number of years, or has it changed?—A. That I couldn't tell you. My opinion would be that the population in 1918 was considerably less than in 1916; practically all of the towns of the interior have suffered a great decrease in population; that might not be true with the Fortymile precinct?—A. I don't know.

Q. You don't know the reasons why this commissioner redivided his recording precinct?—A. No; I do not. I have no information on that subject at all.

Q. He is still commissioner?—A. Yes; he is still commissioner.

Q. There was no official action taken on your part to ascertain the cause of the redivision or as to whether or not the redivision was in accordance with

the best interests, to secure the total vote in the recording precinct, or whether it was adverse to the best interests of the voters?—A. No; I haven't gone into that subject any further than through the communications with Mr. Cole. Mr. Cole seemed to be the one who was particularly interested in it and acting for the others, and I was depending upon him to give me such information as he had.

Q. But there was no further proceedings taken by you regarding the question of the redivision of that precinct?—A. No. It was like this—I hoped to be able to make a trip to the upper Yukon. My plan was to go to the Koyukuk and then across country to the Yukon and to Forty Mile if possible. I tried to cover several of the precincts this summer and succeeded in covering eight of them, I believe. You understand the communications which one receives are more or less unsatisfactory.

Q. You have no knowledge of the number of votes that were affected by the redivision?—A. No; I have no knowledge of that, except such as I would gain from the statement of Mr. Cole.

Q. And you don't know from any subsequent knowledge as stated by you as to whether the redivision served the majority interest or the greater interest of the people there or whether it was adverse to those interests?—A. No; that I don't know.

Q. And in regard to the time of posting the notices in those precincts, by reason of the change in the voting precincts and the redivision—you don't know how much time the public was given in regard to the publishing of those notices?

A. No; I do not. I expected when I first wrote to Mr. Cole that he would give me that information in reply.

Q. You ascertained that he had made the order redividing the precinct within the time prescribed by law?—A. I am not sure that he did—I don't know.

Q. You don't know as to any of the facts in regard to the posting of the notices?—A. No; I do not.

Q. And you state that from your reading of the law in regard to posting the notices no specified time prior to election day is required under the law?—

A. No; I didn't state that. My understanding is that the notices should be posted 30 days before the date of the election and that the order redistricting under the Compiled Laws has to be made 60 days prior.

Q. And speaking of the Jack Wade voting precinct, you think that is a voting precinct within the Fortymile precinct?—A. Yes; I am sure of that; the data which Mr. Cole gives me of the 1916 election shows five voting precincts.

Q. Was five the number of voting precincts after the redivision was made?—

A. No; the five voting precincts were in 1916; I don't know how many there were in 1918. That information I could easily secure, of course.

Q. Do you know the number of voting precincts and the places where the voting was held prior to 1916—how long these five precincts had been established?—A. No; I do not know that; that is all a matter of record at Fairbanks.

By Mr. DONOHUE:

Q. Did you receive any knowledge whatever that the voters of the Jack Wade voting precinct or any other precinct in the Fortymile recording district were dissatisfied with the precinct divisions prior to the time the election was held on November 5, 1918?—A. No; I did not. The first time that I ever heard anything about it was the 24th of November, about that time. You see, the mail is oftentimes very long in transit from the Fortymile country out to Eagle and Circle and Fairbanks—sometimes it is a couple of months or so on the road. You note that my letter of November 27 to Mr. Cole seems not to have been received by him until the 1st of January; and his letter of the 1st of January was received by me. I think the letter shows, on the 24th of February. If a letter misses a mail it has quite a long wait.

Witness excused.

CHARLES BUNNELL.

Subscribed and sworn to before me this 11th day of October, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

Commission expires May 19, 1921.



## EXHIBIT A.

JACK WADE, ALASKA,  
October 12, 1918.

Judge O. E. BUNNELL,  
Fourth Division Court,  
Fairbanks, Alaska.

DEAR SIR: Notwithstanding the fact that at least 90 voters use this post office, in redistricting the Forty-mile precinct, we are now required to vote at Franklin, some 15 miles distant.

A nonpolitical signed protest, of the resident Wade Creek voters, will follow this for the purpose of registering our dissatisfaction.

Respectfully,

CHAS. E. M. COLE,  
(By request of the voters.)

## EXHIBIT B.

JACK WADE, ALASKA,  
October 24, 1918.

Hon. C. E. BUNNELL.

DEAR SIR: I am inclosing the protest mentioned in my last. With one exception it includes the voters at this point, all of whom could vote at Jack Wade with the same exertion used in getting their mail. This is submitted as an expression of disapproval and should be expected by any community so treated.

This precinct could have been divided in such a manner that the scattered voters would have been put to no unusual inconvenience.

I want to call attention to the votes of 1916, the polling places then and now.

Precinct.	Sulzer.	Wicker-sham.	Lewis.	Total.
Chicken.....	10	8	4	22
Franklin.....	5	3	4	12
Wade.....	3	9	9	21
Steel.....	1	9	2	12
Moose.....	15	1	3	19
Total.....	34	30	22	86

It can not be said that the redivision was made 60 days before the election and published 30 days in advance of election day, for the matter was under discussion at Franklin, and unsettled on September 26, 1918.

Respectfully,

CHAS. E. M. COLE.

## EXHIBIT C.

## PROTEST.

To Hon. C. E. BUNNELL:

The undersigned, resident voters of Jack Wade, Alaska, hereby protest against the action of J. J. Donovan, United States commissioner, in redistricting the Forty-mile precinct, thereby depriving us of our customary polling place.

First. On the grounds of apparent illegality, since at all elections subsequent to the first one held under the existing law, such redistricting is required to be done "at least 60 days before the election," and not some 30 days, as in the present case.

Second. In redividing the precinct the inclusion of Squaw Creek and Walkers Fork (two creeks that get most of their mail at this post office) with Jack Wade, would at any time make a full voting precinct and not add to the present inconvenience of the voters of said two creeks.

Third. The present arrangement, if allowed to stand, takes us to a smaller camp, necessitates two days' travel of 30 miles and the consequent road-house

expense. This protest is made believing that the law never contemplated such unnecessary inconvenience to citizens and is not of a political nature.

T. E. PHILLIPS.  
 GEORGE W. HICK.  
 AGNES HICK.  
 CHAS. E. M. COLE.  
 JOHN MEILANETT.  
 JAMES H. MORRIS.  
 GEORGE E. PILZ.  
 OLE BERG.  
 JOHN M. BROOKS.  
 JOHN A. LAMBERT.

ANDREW LASSEN.  
 CHAS. L. JOHNSON.  
 CHAS. ARNOLD.  
 N. M. PATTERSON.  
 JOHN P. CARROLL.  
 W. HUNT.  
 MRS. HANNAH J. JOHNSON.  
 JOHN OSTERGAARD.  
 E. L. ECKSTEIN,  
 JAMES MADIGAN.

OCTOBER 28, 1918.

EXHIBIT D.

FAIRBANKS, ALASKA, November 27, 1918.

MR. CHARLES E. M. COLE,  
*Jack Wade, Alaska.*

DEAR SIR: This is to acknowledge receipt of your communications of October 12 and October 24, together with protest signed by various residents of the Forty-mile precinct.

The duty of dividing a recording precinct into voting precincts under the provisions of the Compiled Laws of Alaska devolves upon the United States commissioner, and I gather from what you say that the commissioner so divided the recording precinct into voting precincts as not to meet with the approval of those who have protested. You, of course, understand that this is an act performed by the commissioner and has nothing to do with any duty of the judge of the district, except that, if it should appear that the commissioner has so failed to discharge his duties as commissioner in that regard, the court might consider the question of removing him and putting some one else in his place. From what little data there is now before me, you can well understand I would not be justified in asking for Mr. Donovan's resignation. I will endeavor to secure a copy of the order he made establishing the voting precincts this year and compare it with what has heretofore been done. The particular complaint in the protest seems to be that the residents of the precinct were not notified for a period greater than 30 days. It seems from what you say that Mr. Donovan has complied with the law in the matter of publishing notices. The law does require that an order be entered establishing the precincts 60 days before election, but a 60-day period of publication does not seem to be required. Any further information you can give me on this subject will be greatly appreciated. It does not seem to be charged that Mr. Donovan, by establishing the precincts as he did, was guilty of playing politics or trying to deprive anyone of his or her vote.

Very truly, yours,

CHARLES BUNNELL, *District Judge.*

EXHIBIT E.

JACK WADE, ALASKA,  
*January 1, 1919.*

HON. C. E. BUNNELL:

DEAR SIR: I am in receipt of your letter of November 27, and in reply will say the protest was prepared and presented by almost unanimous request, so deeply did the residents of this creek feel the loss of their votes. I don't care to elaborate to the extent of making formal complaint, though beyond a doubt there would be ample justification. As a notary I have prepared and furnished certified copies of this protest, to interested persons, I will add this: I never considered that a commissioner had supervisory powers over a community, rather his work should be impersonal, and one should be temperamentally above vindictiveness. Post offices have not been above Donovan's "ken," Ask John Roberts, Franklin postmaster, about his trial October 6 or 7, 1918. Patrons at Wade office were asked to have me removed, too, after nine years' satisfactory service. Very foolish man is all I can say.

Respectfully,

CHAS. E. M. COLE.

EXHIBIT F.

Judge C. E. BUNNELL:

DEAR SIR: The form of protest referred to in letter this mail is as follows and will be signed by 21 voters of this immediate creek:

"A PROTEST.

"The undersigned, resident voters of Jack Wade, Alaska, hereby protest against the action of J. J. Donovan, U. S. Commissioner, in redistricting the Forty-mile precinct, thereby depriving us of our customary polling place.

"First. On the grounds of apparent illegality, since at all elections subsequent to the first one held under the existing law, such redistricting is required to be done 'at least 60 days before the election,' and not some 30 days, as in the present case.

"Second. In redividing the precinct, the inclusion of Squaw and Walkers Fork, two creeks that get mail at this post office, with Jack Wade would at any time make a full voting precinct and not add to the present inconvenience of the voters of said two creeks.

"Third. The present arrangement, if allowed to stand, takes us to a smaller camp, necessitates two days' travel of 30 miles, and the consequent road-house expense.

"This protest is made, believing that the law never contemplates such unnecessary inconvenience to citizens and is not of a political nature."

I may add there can be no possible excuse for so dividing the patrons of a post office.

Respectfully,

CHAS. E. M. COLE.  
(For the voters.)

EXHIBIT G.

FAIRBANKS, ALASKA, February 24, 1919.

MR. CHAS. E. M. COLE,  
Jack Wade, Alaska.

DEAR SIR: Receipt of your letter of January 1, 1919, is acknowledged. I am experiencing some difficulty in trying to determine what you want and also what you are getting at. You have sent me a protest, signed by several parties, against the way the commissioner redivided his recording precinct into voting precincts. The protest is dated October 23, 1918, and did not reach me until long after the November election was held. I wrote you November 27, requesting further information if such you had. Now you write me and apparently decline to give me any further information on the subject except to state that as a notary public you have been making certified copies of this protest and sending them to interested parties. This is interesting information, but serves me no useful purpose. Apparently you are trying to charge the United States commissioner with some misfeasance in office. You indicate that if you had been commissioner you would not have redistricted the recording district. Then you go on to tell me what the vote was in 1916, and just how all the precincts voted. It would seem at first glance that you are attempting to charge the commissioner with depriving some one of an opportunity to vote yet that can hardly be what you mean, for all the signers of the protest must have known on October 23 just where the polling places were and where they would have to go to exercise their right of suffrage. If you are disposed to give me any information on this subject, I shall much appreciate it.

Very truly yours,

CHARLES BUNNELL.  
District Judge.

EXHIBIT H.

DISTRICT COURT OF THE TERRITORY OF ALASKA.  
FAIRBANKS, August 26, 1918.

To United States Commissioners:

Supplies are inclosed herein for the voting precincts in your recording precinct. An invoice is also inclosed and you may apportion the supplies herein to the different voting precincts.

Please see that all vouchers for posting notice of election are executed and returned here for payment promptly. Also please be sure and sign the certificate of posting notices, as well as having the same signed by the person who posted the notice.

Commissioners, generally, are to be commended upon the manner in which they have responded to the suggestion of economy in election expenses. There is still one matter, however, which should be brought to the attention of the election officers.

It appears that many election judges are under the impression that a strong and expensive ballot box must be had. Such is not the case, and some dissatisfaction has been the result of disallowing exorbitant charges for ballot boxes. In places where a good ballot box has been made, it should be used for all subsequent elections, but if it is found necessary to incur such expense, then only a nominal charge will be allowed.

The same general request for economy is made herein as was made in the election two years ago. You are earnestly requested to bring these matters directly to the attention of election officers and if this is done, complaints and dissatisfaction regarding the allowance of expenses will be eliminated.

The attention of one or two commissioners is directed to section 396 of the Compiled Laws of Alaska. The law does not contemplate the establishing of voting precincts in places where many prior elections have proven that there are but five or six votes. While it is not believed that any considerable number of voters should be deprived of their franchise by reason of having no voting precinct established, yet it is a matter which should receive the careful attention of the commissioner creating the same.

Respectfully,

J. E. CLARK, *Clerk.*

[In the district court for the Territory of Alaska, fourth judicial division.]

UNITED STATES OF AMERICA,

*Territory of Alaska, Fourth Judicial Division, ss:*

#### CERTIFICATE.

I, H. Claude Kelly, clerk of the District Court for the Territory of Alaska, fourth judicial division, hereby certify that the foregoing and hereto attached one page of typewritten matter constitutes a full, true, and complete copy, and the whole thereof, of a copy of the letter sent to all commissioners in the fourth division of Alaska with supplies for the general November, 1919, election, as the same appears in the files of my office.

In witness whereof I have hereunto set my hand and the seal of the above-entitled court this 29th day of August, 1919.

[SEAL.]

H. CLAUDE KELLY,  
*Clerk.*

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

I, Frank J. Hayes, a notary public in and for the Territory of Alaska, duly commissioned, qualified, and sworn, do hereby certify:

That A. E. Rucker, one of the witnesses named in the hereto annexed notice and deposition appeared before me at my office at Valdez, Alaska, at the hour of 3 o'clock in the afternoon on October 7, 1919, and thereupon gave his deposition as hereinbefore set forth upon oral interrogatories then and there propounded to him by Anthony J. Dimond, attorney for George B. Grigsby, the contestee, and cross-interrogatories propounded to him by E. E. Ritchie and J. L. Reed, attorneys for James Wickersham, the contestant. That said testimony of the said witness when given was taken down in shorthand by I. Hamburger, a disinterested person, under my direction, and after being transcribed the said witness read his deposition and signed and swore to the same before me as being true in all respects.

That thereupon and on October 13, 1919, at my said office at Valdez, Alaska, at the hour of 10 o'clock in the forenoon of said date there appeared before me Hamner Houston and Anthony J. Dimond, two of the witnesses named in the hereto annexed notice, and thereupon gave their depositions as hereinbefore set forth. The direct interrogatories were propounded to the said Hamner Houston by Anthony J. Dimond, Esq., attorney for George B. Grigsby, con-

testee, and the cross-interrogatories were propounded to said witness by E. E. Ritchie, Esq., one of the attorneys for James Wickersham, contestant. That the said testimony of the said witnesses, Hamner Houston and Anthony J. Dimond, when given was taken down in shorthand by I. Hamburger, a disinterested person, under my direction, and after being transcribed the said witnesses read their depositions and signed and swore to the same before me as being true in all respects. That thereupon, with consent of all parties, the taking of said depositions was continued until 5 o'clock p. m., on October 13, 1919.

That thereupon and on October 13, 1919, at my said office at Valdez, Alaska, at the hour of 5 o'clock in the afternoon of said date there appeared before me Charles E. Bunnell, one of the witnesses named in the hereto annexed notice, and thereupon gave his deposition as hereinbefore set forth. The direct interrogatories were propounded to the said Charles E. Bunnell by T. J. Donohoe, Esq., attorney for George B. Grigsby, contestee, and the cross-interrogatories were propounded to said witness by J. L. Reed, Esq., attorney for James Wickersham, contestant. That the said testimony of the said Charles E. Bunnell, when given, was taken down in shorthand by I. Hamburger, a disinterested person, under my direction, and after being transcribed the said witness read his deposition and signed and swore to the same before as being true in all respects. That thereupon, with consent of all parties, the taking of said depositions was continued until 5:30 o'clock p. m., on October 13, 1919.

That thereupon and on October 15, 1919, at my said office at Valdez, Alaska, at the hour of 5.30 o'clock in the afternoon of said date there appeared before me H. B. Selby, one of the witnesses named in the hereto annexed notice, and thereupon gave his depositions as hereinbefore set forth. The direct interrogatories were propounded to the said H. B. Selby by Anthony J. Dimond, Esq., attorney for George B. Grigsby, contestee, and the cross-interrogatories were propounded to the said H. B. Selby by J. L. Reed, Esq., attorney for James Wickersham, contestant. That the said testimony of said H. B. Selby, when given, was taken down in shorthand by I. Hamburger, a disinterested person, under my direction, and after being transcribed the said witness read his deposition and signed and swore to the same before me as being true in all respects.

That the foregoing depositions contains a full, true, and correct transcript of the testimony given by each of said witnesses at the times and places aforesaid; also contains a full, true, and correct transcript of all objections interposed to said testimony at the time and place of taking said depositions by the attorney for the respective parties; also contains a full, true, and correct transcript of all statements made by the attorneys of the respective parties relative to said testimony; also contains Exhibits A, B, C, D, E, F, G, and H, introduced in evidence by Charles E. Bunnell and the same are attached to and made a part of the deposition of the said Charles E. Bunnell, and are all identified as such exhibits by my signature; also contains the said exhibits A and B, attached to and made a part of the deposition of witness A. E. Rucker, said exhibits being identified by my signature. That the exhibits introduced at the testimony of Hamner Houston were incorporated in said testimony, and the said original exhibits are not annexed to the deposition of the said Hamner Houston in order to save repetition and with the consent of all parties to this proceeding.

In witness whereof, I have hereunto set my hand and affixed my official seal at Valdez, Alaska, this 17th day of October, 1919.

[SEAL.]

FRANK J. HAYES,  
Notary Public for Alaska.

My commission expires May 19, 1921.

Be it remembered, that pursuant to notice hereto annexed, and on the 14th day of October, 1919, at 7.30 o'clock p. m. of said day, at Nome, Alaska, before me, L. E. Weith, a notary public in and for the Territory of Alaska, personally appeared T. P. Killeen, E. D. Evans, and J. H. Maguire, witnesses produced on behalf of the contestee in the above-entitled action, now pending before the House of Representatives of the United States, who being by me duly sworn, were then and there examined and interrogated by Hugh O'Neill, counsel for contestee, and O. D. Cochran, of counsel for contestant, and testified as follows:

(It is hereby stipulated and agreed that the taking of the depositions be, and the same is, hereby continued until 7.30 p. m. this day. Upon motion of Hugh O'Neill it is ordered that all witnesses in the above-entitled cause



appear before L. E. Weith, notary public, at 7.30 p. m. this evening, at the same place as provided in said notice, without further notice.)

**NOTICE OF TAKING DEPOSITIONS.**

*To James Wickersham, contestant, and M. Ward Griffith, his agent:*

You, and each of you, will please take notice that the contestee, George B. Grigsby, will take the depositions of Justice Picknicktalick, Monroe Goannonnan, and George Kotook, all of whom reside at Unalakleet, Alaska; T. P. Killeen and E. D. Evans, both of Nome, Alaska, before L. E. Weith, a notary public for Alaska, at the office of Hugh O'Neill, on Steadman Avenue near Front Street, in Nome, Alaska, on the 14th day of October, 1919, at the hour of 2 o'clock p. m. of said day.

Dated at Nome, Alaska, this 9th day of October, 1919.

**HUGH O'NEILL,**  
*Attorney for Contestee.*

**TERRITORY OF ALASKA,**  
*Second Division, ss:*

T. P. Killeen, being duly sworn, deposes and says that he is a citizen of the United States, of lawful age, and a resident of the town of Nome, Alaska; that he knows personally the above-named M. Ward Griffith. That on the 9th day of October, 1919, affiant received the foregoing notice of the time and place for taking the depositions in the contest above entitled, and on the same day personally served a duplicate thereof, signed by Hugh O'Neill, attorney for contestee, on the said M. Ward Griffith, in person, at Nome, Alaska; That said service was made by delivering, as aforesaid, to the said Griffith in person by this affiant in person, at about 4.30 o'clock p. m. on the said 9th day of October, 1919.

**T. P. KILLEEN.**

Subscribed and sworn to before me this — day of October, 1919.

[SEAL.]

**L. E. WEITH.**  
*Notary Public for the Territory of Alaska.*

(My commission expires Nov. 14, 1921.)

*To James Wickersham, contestant, and M. Ward Griffith, his agent:*

You, and each of you, will please take notice that the contestee, George B. Grigsby, will take the depositions of J. H. Maguire before L. E. Weith, a notary public for Alaska, at the office of Hugh O'Neill, on Steadman Avenue near Front Street, in Nome, Alaska, on the 14th day of October, 1919, at the hour of 7.30 o'clock p. m. of said day.

Dated at Nome, Alaska, this 14th day of October, 1919.

**HUGH O'NEILL,**  
*Attorney for Contestee.*

**TERRITORY OF ALASKA,**  
*Second Division, ss:*

T. P. Killeen, being duly sworn, deposes and says: That he is a citizen of the United States of lawful age, and a resident of the town of Nome, Alaska. That he knows personally the above named M. Ward Griffith. That on the 14th day of October, 1919, affiant received the foregoing notice of the time and place for taking the depositions in the contest above entitled, and on the same day personally served a duplicate thereof, signed by Hugh O'Neill, attorney for contestee, on the said M. Ward Griffith, in person, at Nome, Alaska. That said service was made by delivering, as aforesaid, to the said Griffith in person by this affiant in person, at about 3 o'clock p. m. on the said 14th day of October, 1919.

**T. P. KILLEEN.**

Subscribed and sworn to before me this — day of October, 1919.

[SEAL.]

**L. E. WEITH,**  
*Notary Public for the Territory of Alaska.*

Commission expires November 14, 1921.

## DEPOSITION OF T. P. KILLEEN.

T. P. KILLEEN, a witness called on behalf of the contestee, being first duly sworn, testified as follows:

Direct examination by Mr. O'NEILL:

Q. Mr. Killeen, what is your business?—A. At the present time I am agent for the suppression of the liquor traffic among the natives.

Q. Agent for the suppression of the liquor traffic among the natives. Have you been down at Unalakleet recently?—A. Yes, sir; I was down there in August.

Q. How long have you been agent for the suppression of the liquor traffic among the natives?—A. A year ago last July.

Q. And your business took you into Unalakleet on various occasions?—A. Yes, sir.

Q. Are you familiar with the residents of Unalakleet?—A. Yes, sir.

Q. I show you this document and ask you if you know any of the persons named in that document?—A. I know nearly all of them.

Q. Are they white or Eskimos, generally?—A. Generally, they are Eskimos; there are eight whites there in this list.

Mr. O'NEILL. I offer this document in evidence, and ask that it be marked "Contestee's Exhibit A."

Mr. COCHRAN. I object to that; it is an omnibus proposition; object to the manner of the interrogation of the witness, upon the individuals named in this document.

(Voting list of Unalakleet precinct received in evidence and marked "Contestee's Exhibit A.")

Q. What is the business generally of the Eskimos in Unalakleet?

Mr. COCHRAN. Objected to as immaterial.

A. Fishing and hunting, some of them.

Q. State the ones that live by fishing and hunting.—A. I could easier state the others.

Q. State the ones that do not.—A. George Kotook, he works in the summer time with his boat; he has a boat; Arthur Soxie lives by fishing and hunting and curing skins for making Muckluks; Shafter is a reindeer herder—Toasvick, that is his last name, I suppose; there are quite a lot of those that are women.

Q. With respect to the women.—A. Katchatak is always fishing and hunting.

Q. With respect to the women, what are their means of livelihood?

Mr. COCHRAN. Objected to as too general.

A. Cleaning seal and working around, that is all I seen them do; in the winter-time they fish tomcod, when I go through there in the wintertime; when I go through there in the summer time working on sealskins.

Q. Do the natives generally live there under the same conditions and modes of living that they did here in the early days?

Mr. COCHRAN. That is objected to as leading. I suggest that the witness be permitted to testify.

Q. I will change the form of the question. What difference is there now in the mode of living of the Eskimos generally in Unalakleet, and that mode which they pursued in early days; that is, 1900 or thereabouts?—A. Well, the only difference I could see in their houses and their dwelling houses is, that they have got beds in the houses now, whereas they used to sleep on the floor before.

Q. Do you know anything about the educational qualifications of the natives, generally, at Unalakleet?—A. I do some; yes sir.

Q. State what you know as to their educational qualifications.—A. The younger generation there are fairly smart, but the older folks, several of them I know of can't either read or write.

Q. Can you designate on that list of voters of the Unalakleet Precinct the ones that can not either read or write?—A. Mrs. George Kotook, Katchatak—

Mr. COCHRAN. He can neither read nor write?—A. No. Washoalook—

Mr. COCHRAN. He can neither read nor write?—A. No. Helga Ratchatag. Mary Power—

Mr. O'NEILL. That is Tom Power's wife?—A. Yes, sir. Taktook.

Mr. COCHRAN. He can neither read nor write?—A. No. That is all I can say that I know anything about that can neither read nor write.

Mr. O'NEILL. Do you know as to whether these natives at Unalakleet know anything about politics, or take any interest in politics?—A. A few of them do.

Q. Name the ones you know that do.

Mr. COCHRAN. I object to him taking that list for that purpose.

Q. All right, name them independently.—A. The man that took the most interest in politics—

Mr. COCHRAN. The question is to name the ones that took an interest in politics.—A. He is dead, Maurice Johnson is one.

Mr. O'NEILL. Do you know of any others?—A. Samuel Anaruk is one.

Q. Is he an educated native?—A. Yes, sir; he is the teacher there.

Q. A native teacher?—A. A native teacher; yes, sir.

Q. Any other?—A. That is all I know of that I will say took any interest in politics.

Q. Judging from your knowledge of the natives down there would you consider any of them intelligent enough to exercise the elective franchise?

Mr. COCHRAN. I object to that as asking for an opinion of this witness, who is a strong partisan.

A. Well I believe those two men would be that I mentioned, and others—two men over from Shaktolik, those two Ivanhoff brothers, M. Ivanhoff and Steve Ivanhoff.

Q. Designated as 12 and 13 on the list of voters?—A. Yes, sir.

Q. The rest of the Eskimos, with the exception of those you designated, live in the same squalid surroundings that the natives lived in in early days, more or less?

Mr. COCHRAN. That is objected to as very leading.

Q. What are the surroundings; what are the general character of the surroundings?—A. Well, they live in a—just a native village, as they are over in the spit here.

Q. Dress in furs?—A. Dress in furs; yes.

Q. And live by hunting and fishing?—A. Practically; yes, sir.

Q. You were down there at the last election, were you not?—A. Yes, sir.

Q. What did you observe with reference to the natives going to the polls?

Mr. COCHRAN. Objected to as not material.

Q. With respect to their qualifications to exercise the elective franchise?

Mr. COCHRAN. What election are you referring to?

Mr. O'NEILL. The last Grigsby election.

Mr. COCHRAN. June 3?

Mr. O'NEILL. Yes.

A. Well, from my own say, if I could stop them from voting, or give them the privilege of a vote, I certainly would not say they knew what they were voting about.

Q. You do not consider they knew what they were voting about?—A. What it was for.

Mr. COCHRAN. Objected to as very leading.

Q. Did you observe whether many of them were unable to write their names?—A. Yes, sir.

Q. How many, approximately?—A. Oh, there was at least a dozen came in there that could not.

Q. While you were there?—A. Yes, sir.

Q. I will show you this bunch of pictures, and ask you if these pictures are typical of the Eskimo on Seward Peninsula?

Mr. O'NEILL. If you have any pictures—I tried to collect a general bunch of pictures; if you have any others I will give you an opportunity to put them in on cross-examination.

A. Quite an assortment, all right.

Q. Do you consider those pictures typical of the Eskimo life and Eskimo characteristics at the present time on Seward Peninsula?—A. I don't know how I could answer those questions; those Eskimos are just as I have seen them.

Q. Well, there is no difference between the Unalakleet Eskimo in appearance or manner than in those Eskimos pictured there, are there?—A. No.

Mr. COCHRAN. I object to that as very leading.

Q. I will change the form of the question. What difference, if any, is there in the Unalakleet Eskimo and the Eskimos designated in those pictures?—A. None that I can see.

Q. Do you consider the pictures typical of the Eskimo and Eskimo life and habits?

Mr. COCHRAN. I object to that; those pictures do not purport to represent Eskimo life and habits.

A. I do think they are a good description of them.

Q. How long have you resided on the Seward Peninsula?—A. Twenty years, last June.

Q. And you are familiar with the Eskimos on Seward Peninsula?—A. I think I am; yes, sir.

Mr. O'NEILL. I offer these pictures in evidence, and ask that they be marked consecutively, starting with Exhibit "B."

(Pictures received in evidence and marked, respectively, Exhibits "B" to "U.")

Cross-examination by Mr. COCHRAN:

Q. Now these pictures that were handed you, you don't recognize any of them as being pictures of natives at Unalaklett, or pictures taken at Unalaklett, do you?—A. No.

Q. You recognize those, do you not, as pictures taken by Lomen Bros. and other photographers here in Nome for the purpose of sale to tourists?—A. So I suppose.

Q. They are the pictures you will find in the racks down here in the photographic studio for sale?—A. Yes, sir.

Q. Now you have lived in Alaska 20 years, did you say?—A. Yes sir.

Q. In Nome?—A. Nome and the surrounding country.

Q. When were you first in Unalaklett?—A. Last March.

Q. March of last year was the first time you were ever in Unalaklett in your life?—A. No; I was there in 1899.

Q. You were there in 1899?—A. Yes; just for an hour.

Q. Just passed through there in 1899?—A. I was there for about an hour.

Q. What time of the year?—A. In June.

Q. In June?—A. Yes, sir; 22d of June, I think.

Q. That was in 1899?—A. Yes, sir.

Q. And was there one hour then?—A. About one hour.

Q. And then you were never there again until March of last year?—A. Yes.

Q. What were you doing there in March of last year?—A. On official business.

Q. Any politics?—A. That don't combine with my business.

Q. Were you doing a little political missionary work for your people at Unalaklett?—A. In March?

Q. Yes.—A. I stayed over there two nights.

Q. Were you doing a little political missionary work for your—A. I was going up the Yukon on business.

Q. Yes. But were you doing a little political missionary work for your branch of the Democratic Party?—A. No, sir.

Q. You were not doing any political work at all, that was what I wanted to find out?—A. No, sir.

Q. Didn't discuss politics with Tom Powers?—A. He didn't happen to be there at the time I was there; if he was I would.

Q. You were there two nights in March?—A. Yes, sir.

Q. Where did you stop?—A. Powers.

Q. Tom Powers's house?—A. Yes, sir.

Q. Road house?—A. Yes, sir.

Q. What nights were they of the week, do you remember?—A. Yes, sir.

Q. I particularly wanted to find out whether it was Sunday night?—A. Sunday night?

Q. Whether you were there on a Sunday night at that time?—A. Well, if you can tell me what day the 17th of March fell on I could tell you, because I left there on the 17th of March, and got into St. Michael, that is as close as I can get to it; I believe it was Monday, the 17th of March.

Q. That you left?—A. Yes, sir.

Q. If you were there Sunday, was there church there?—A. They have church there every Sunday.

Q. And the minister was there?—A. Yes, sir; he was there last winter.

Q. What is his name?—A. I don't know his name; I do know his name, but I can't think of it.

Q. Were you down at the services? Did they have services while you were there?—A. Yes.

Q. At the church?—A. Yes.

Q. Did you go?—A. No, sir.

Q. Well, the minister preaches there in English, doesn't he?—A. Yes, sir.

Q. And these people you have been speaking about, they are very ardent church attendants, the people of Unalakleet?—A. Yes.

Q. Attend church pretty regularly?—A. Yes, sir; the minister has got an interpreter.

Q. The minister has an interpreter?—A. That interprets his sermon, every word he speaks.

Q. Well, isn't it a fact, Tom, he interprets some words; when they get stuck on a word he interprets the word, and generally that is all he does?—A. No, sir; I have been in there several times, but I didn't go that Sunday.

Q. Is there a school there?—A. Yes, sir.

Q. Ever go to the schoolhouse?—A. Yes, sir; I have been to the schoolhouse.

Q. Were you there during school hours?—A. No.

Q. These people you have been talking about, all send their children to school?—A. Most of them.

Q. Good school?—A. Pretty good school; yes, sir.

Q. You say the younger people down there are pretty bright people?—A. Yes, sir.

Q. All speak English?—A. All of them I have spoken to—the younger ones.

Q. Now, that is quite a shipbuilding point, isn't it, for building boats along this coast?—A. I have never seen a boat built there.

Q. Don't you know that most of the boats that ply up and down the coast here were built at Unalakleet?—A. I don't know.

Q. You don't know whether that is true, or not?—A. I don't see where there would be any boats built there.

Q. You don't know whether that is true, or not?—A. No, I don't.

Q. You say you were in their homes?—A. Yes, sir.

Q. Whose homes were you in?—A. Oh, I was in to several of them.

Q. For what purpose?—A. Well, just investigating around there.

Q. Investigating what?—A. My duties to see if they had any sour dough.

Q. They don't have sour dough down there at Unalakleet?—A. Yes.

Q. Notwithstanding you went through some of their homes looking for sour dough?—A. Yes, sir.

Q. You go through all their homes?—A. No, not all of them.

Q. All live in houses?—A. Yes, sir.

Q. Wooden houses—frame houses?—A. Log and frame houses.

Q. And they have a kitchen, most of them—kitchens in their houses, don't they?—A. George Kotook has; that is the only one I have been in that has a kitchen.

Q. That is the only one you have been in that has a kitchen?—A. Only one I have been in.

Q. Now tell me one you were in that didn't have a kitchen?—A. Katchatak, Wilson Gonognan, Justice Pickmicktalick, I have been in several other places, but I can't think of their names.

Q. Now, you were there two days in March?—A. Yes, sir.

Q. And when were you next back there, Tom?—A. I have been back there again—I was back there again, I think it is the 14th of April.

Q. For a short time?—A. Just stayed there two days then, too.

Q. Last April?—A. Yes, sir.

Q. And that was when you were returning—you were coming back then?—A. I came back and took some prisoners over there to St. Michael.

Q. And when were you down to Unalakleet again?—A. From Nome?

Q. No. When were you in Unalakleet after April again?—A. Well, I was there again—I came back to Unalakleet from St. Michael. I think it was the 23d of April.

Q. Of April?—A. Yes, sir.

Q. Stay there very long?—A. Stayed over night.

Q. And came on to Nome?—A. And came on to Nome.

Q. And when were you back to Unalakleet after that?—A. I was back there the 15th of May, I think; 14th or 15th of May.

Q. What did you go down there the 14th or 15th of May for?—A. I left here on business; left here on the 8th of May for St. Michael; I got caught there.

Q. How long did you stay at Unalakleet then?—A. Until the 7th of June—before I could get a boat out of there.



Q. What did you go to Unalakleet for?—A. I was on my way to St. Michael, and I got a call from St. Michael, from Commissioner Koen, calling me to St. Michael immediately.

Q. You were not under Commissioner Koen, at St. Michael; he has nothing on earth to do with you?—A. Certainly he has.

Q. You are under the directions and instructions of Commissioner Koen, of St. Michael?—A. If he has any work to do over there he notifies me, and——

Q. The commissioner hasn't anything to do with the suppression of liquor?

Mr. O'NEILL. I submit the witness has a right to finish his answer.

Q. Finish your answer.—A. He told me any time he would find out the natives were making sour dough, or drunk, or anything over there he would notify me here. I was on my way over there then.

Q. He notified you the natives were making sour dough and drunk over there?—A. Yes, sir.

Q. At St. Michael?—A. Yes, sir.

Q. How many natives over there at St. Michael; how many are there?—A. Quite a few.

Q. Do you know them?—A. I am not acquainted very much with them; no.

Q. You have been to St. Michael a number of times?—A. I was in St. Michael about three times, I think.

Q. And how do they compare with the natives at Unalakleet?—A. They are about the same; I don't notice any difference in them.

Q. Don't see any difference between them?—A. No; there is a lot of the natives in St. Michael that are not in the native village at all; they live separate altogether; they are a kind of mixture; they are mostly all half-breeds, live close to St. Michael there, and the other villages——

Q. They live by hunting over there and trapping?

Mr. O'NEILL. Which are you talking about, the natives of the half-breeds?—A. Which do you mean?

Q. The natives at St. Michael you are talking about.—A. I don't know how they make a living over there, mostly fishing, I am sure.

Q. Mostly fishing?—A. Yes, sir.

Q. Were you in their houses?—A. The village?

Q. The natives at St. Michael?—A. The village?

Q. Are those houses at St. Michael?—A. Yes, sir.

Q. Do they have beds, too?—A. Yes; they have beds, too; bedroom and kitchen are all in the same place.

Q. Your idea, Tom, is the natives are, so far as civilization is concerned, about the same all over the Peninsula, is that the idea?—A. Yes, sir.

Q. And it is about the same as it was 20 years ago?—A. Somewhat about the same.

Q. I mean it is about the same as it was 20 years ago, except they have beds in their houses, when they used to sleep on the floor?—A. Except the younger boys and girls; they are growing up now, they are different altogether.

Q. The younger boys and girls growing up are intelligent?—A. Just as I told you about the folks in Unalakleet; yes, sir.

Q. When you were over at Unalakleet in April or May—May and June, up to the 7th of June, what were you doing there during that period?—A. I was around trying to get a boat to get out of there.

Q. There was a election going on on the 3d of June?—A. Yes, sir.

Q. For Delegate?—A. For Delegate.

Q. Mr. Grigsby was a candidate, was he not?—A. Yes, sir.

Q. You were a very ardent supporter of Mr. Grigsby's, were you not?—A. I did all I could for Mr. Grigsby.

Q. I know that, Tom; you had a right to; I am not impugning your motives in it; the fact is you were a very ardent supporter of Mr. Grigsby?—A. Yes, sir.

Q. And you did all you could for him, didn't you?—A. Yes, sir.

Q. And you did all you could for him at the places you were at at Unalakleet?—A. Yes, sir.

Q. You got all the natives you could to vote for him, didn't you?—A. No, sir; I didn't speak to a native for him.

Q. Did you hire any native to go out and get natives to come in and vote for Mr. Grigsby?—A. No, sir.

Q. Did you pay any money to any natives to go out and bring in native votes?—A. No, sir.

Q. None at all?—A. Not a cent.

Q. Did you talk to the natives over there about voting for Mr. Grigsby?—A. No, sir.

Q. Not to a single one?—A. No, sir.

Q. You did nothing while you were there in support of Mr. Grigsby's candidacy?—A. No, sir.

Q. Not a thing?—A. Not with the natives.

Q. Not a thing with the natives?—A. Not a thing with the natives; no.

Q. You did with others?—A. I talked to Mr. Powers about Mr. Grigsby.

Q. Did you talk to Mr. Powers about getting the natives to vote for Mr. Grigsby?—A. I told him to do what he could for Mr. Grigsby.

Q. Did you talk to Mr. Powers about getting the natives to vote for Mr. Grigsby?—A. I answered your question. I told him to do what he could for Mr. Grigsby.

Q. Did you tell him to do what he could for Mr. Grigsby with the natives?—A. I didn't tell him anything else, only to do what he could for Mr. Grigsby.

Q. What did you mean by that, for him to get all the native votes he could for Mr. Grigsby?—

Mr. O'NEILL. This entire line of testimony is objected to on the ground it is not an issue in the case. I don't want counsel to go to considerable length on the matter.

(Question read.)

A. I told him to do what he could for Mr. Grigsby, or, at least, I didn't tell him, I asked him.

Q. Did you vote for Mr. Grigsby there?—A. Yes, sir.

Q. Your residence was in Nome, was it not?—A. Yes, sir.

Q. George Kotook, you say he owns a boat?—A. He has a boat; yes, sir; I don't know whether he owns it or not.

Q. What kind of a boat is it?—A. A little gasoline boat.

Q. What does he do with it?—A. Well, he was running between Unalakleet and St. Michael, two trips this summer, that is all I know; what he has done with it since I don't know. He made a trip from St. Michael to Golovin.

Q. Boat is what burden?—A. I guess about between 6 and 10 tons—I guess about that.

Q. One of the seagoing, coastwise boats?—A. You could not go to sea with it; he keeps along the coast with it; he don't go to sea with it; he could not come across from St. Michael to Unalakleet, right straight across; he has to keep along the coast.

Q. Was he master of the boat?—A. His son—

Q. His son was master?—A. His son runs the engine.

Q. His son runs the engine, and he steers the boat?—A. He steers the boat.

Q. Licensed boat; do you know whether it is?—A. I don't know.

Q. He lives in Unalakleet?—A. Yes, sir.

Q. Do you know his son?—A. Yes.

Q. His son is a bright, intellectual boy?—A. Yes, sir.

Q. Speaks the English language very well?—A. Yes.

Q. Gasoline engineer?—A. I could not say.

Q. He runs a gasoline engine on the boat, doesn't he?—A. He runs that engine.

Q. Now, Arthur Soxle. You say that Arthur Soxle lives by fishing and hunting?—A. Yes, sir.

Q. He is a fur buyer?—A. Arthur Soxle?

Q. Yes.—A. Not the Arthur Soxle I know.

Q. Doesn't he buy furs?—A. I don't know.

Q. Just fishes and hunts?—A. That is all they tell me he does.

Q. You have been there but very little?—A. I have been there five or six times.

Q. The longest times you were ever there was in April, May, and June, wasn't it?—A. Yes, sir.

Q. Have you been there since?—A. Yes, sir.

Q. When?—A. In August, I think.

Q. This year?—A. Yes, sir; this August.

Q. Those are the only times you were ever there?—A. That is the only time I was there for about a week; three days, anyway.

Q. Did you see Arthur Soxie?—A. No.  
 Q. Where was he?—A. Up the river, fishing.  
 Q. You didn't see him?—A. No.  
 Q. Are you just guessing at that?—That was what Tom Powers told me.  
 Q. Tom Powers told you he was up the river, fishing?—A. Yes, sir.  
 Q. You don't know what kind of fishing he was doing?—A. Salmon, I suppose.  
 Q. Fishing for salmon; nets?—A. I guess so.  
 Q. Now, Shafter Tosavick is a reindeer herder?—A. Yes, sir.  
 Q. And owns reindeer?—A. I don't think so.  
 Q. Do you know whether he does, or not, own reindeer?—A. I don't know.  
 Q. You never saw much of him, did you?—A. Well, I saw him three or four times.  
 Q. That is all you ever saw him in your life?—A. He does not live at Unalakleet, he lives in Garvick, which is the next village to Unalakleet.  
 Mr. COCHRAN. That is all.

Redirect examination by Mr. O'NEILL:

Q. You and Tom Powers are very old friends, are you not?—A. Yes, sir.  
 Q. You were a partner of his, were you not, in the early days?—A. In 1899; yes, sir.  
 Q. Do you know whether any natives voted at Nome in this general election held on the 5th of November, 1918?—A. No; I do not.  
 Q. Do you know whether any voted, or not?—A. No.  
 Q. And from your observation of the natives they are practically the—  
 Mr. COCHRAN. I will say to you they did.  
 Mr. O'NEILL. How many?  
 Mr. COCHRAN. I don't know.  
 Mr. O'NEILL. I will say that they did not, because I made particular inquiry.  
 Mr. COCHRAN. Native women that are married to white men are entitled to vote.  
 Mr. O'NEILL. There was some opposition to their voting, and it was conceded that they were not entitled to vote, and they did not vote.  
 Q. From your observation, are the natives of Unalakleet practically the same as the natives generally on Seward Peninsula?—A. Yes, sir; so far as I have seen they are.  
 Q. You have not observed any difference in the method of livelihood or their general education qualifications?  
 Mr. COCHRAN. Very leading.  
 A. No, sir; except the three or four men I have mentioned, the teacher and the Ivanhoffs and Samuel Anaruk and Maurice Johnson.  
 Q. If the natives of Unalakleet were of a higher class than the other natives on Seward Peninsula, were you there long enough to observe it?—A. I certainly would.

T. P. KILLEEN.

Subscribed and sworn to before me this 14th day of October, 1919.

[SEAL.]

L. E. WEITH,  
*Notary Public for the Territory of Alaska.*

My commission expires November 14, 1921.

DEPOSITION OF E. D. EVANS.

E. D. EVANS, being first duly sworn, testified on behalf of the contestee as follows:

Direct examination by Mr. O'NEILL:

Q. What is your business?—A. I am superintendent of the Seward Peninsula district of the Bureau of Education.  
 Q. How long have you been on Seward Peninsula?—A. Going on the fifth year.  
 Q. In what capacity were you thus employed?—A. In what capacity am I at present?  
 Q. Yes.—A. Superintendent.

Q. How long have you been engaged in Eskimo work?—A. Since 1908; I should not say 1908; for the past five years; before that I was in Indian work.

Q. Have you been in Unalakleet?—A. No, sir.

Q. Have you ever seen any Unalakleet natives in Nome?—A. No, sir; not in Nome.

Q. Never seen any in Nome?—A. No, sir.

Q. Did you see this bunch of natives that came from Unalakleet to attend the session of court?—A. Yes, sir; just the girls—just the women. I haven't seen the men.

Q. How do they compare with other natives in the Second Division?—A. By just looking at them they seem to be just the same; I never had any conversation with them.

Q. Where have you been employed in your Eskimo work on Seward Peninsula—what places?—A. At Selawik, in the Kobuk, at Mary's Igloo, in the Kougarok, and Nome.

Q. Do the natives average up about the same in educational qualifications and their habits of livelihood generally in the different localities?—A. In their habits of livelihood and in their educational qualifications in some places are more advanced.

Q. In what places would you say they were more advanced?—A. I would say they are more advanced in Wales.

Q. You are familiar with the natives of Wales?—A. Yes, sir.

Q. Take the most advanced native in Wales you know, would you consider that he was qualified to exercise the elective franchise?

Mr. COCHRAN. I object to that as a pretty hard question—most advanced native he knows.

Mr. O'NEILL. I will change the form of the question.

Q. From your work with the natives generally, do you consider that they are qualified to exercise the elective franchise, generally?—A. I would say not.

Mr. COCHRAN. I think we would all agree with him on that.

Q. Just state your reasons for that.

Mr. COCHRAN. Objected to as immaterial.

Q. In other words, Mr. Evans, I want to get before the committee a correct delineation of the character and the mode of living and the general qualification of the native so that the committee can understand his qualifications.—A. Well, I don't think they have been educated to that; their education only covers a period of about 30 years—perhaps less than that. I do not consider that they understand enough to realize what they would be voting for, and the qualifications of the party whom they vote for. I don't think they understand enough of the workings of the Government.

Q. Do you consider the natives susceptible—readily susceptible to the evil influence of disreputable characters in voting?—A. They are, unfortunately.

Q. In other words, would you consider that a squaw man that was popular with them could vote them in politics?—A. That would depend altogether on the man, and depend somewhat on the teacher, or who had charge of them.

Q. In the absence of a teacher?—A. In the absence of a teacher; yes, sir.

Q. Do you know anything about the Unalakleet situation?—A. No; absolutely nothing.

Q. Do you know officially about it; that is, in your office, how the Unalakleet natives average up?—A. They are supposed—

Mr. COCHRAN. We object to any suppositions; that is a question of fact. If the witness does not know anything about it he should state it; if he does know any fact let him state what the facts are, but not suppositions. If he has any official records that would be competent to fix the status of the natives at Unalakleet let him produce the records.

Mr. O'NEILL. I will withdraw the question.

Q. I show you this bunch of pictures and ask you if that is an average bunch of pictures of the Eskimos and their methods of livelihood and their characteristics, on the Seward Peninsula.—A. I think that these two pictures are misleading, for the simple reason that they typify the native life here seen during the summer months, natives coming from the north, from King Island, they live in tents during the summer, but the majority of natives in Nome live in houses.

Mr. O'NEILL. I will not offer these two in evidence. I don't want anything to go before the committee that will be in any wise misleading.

A. (Continuing.) On the whole, I think they represent the native in their pursuits very well.

Q. I show you this last, marked "Contestee's Exhibit A," and ask you if you know any of the natives on that list.—A. Just one.

Q. Who is the one you know?—A. No. 40, Samuel Anaruk.

Q. What does he do for a living?—A. He is assistant teacher.

Q. He is an educated native?—A. He is an educated native.

Q. Would you consider that he would be qualified to vote?—A. I would consider if anybody was qualified to vote he would be.

Q. Would you want to live under a government where Eskimos were permitted to vote?—A. No, sir; he spent two or three years in college, this native.

Cross-examination by Mr. COCHRAN:

Q. You say the natives have had 30 years of education?—A. I didn't say 30 years; I said somewhere around that, Mr. Cochran.

Q. And 30 years is not sufficient to qualify them for citizenship in this Nation, in your opinion?—A. No, sir.

Q. Thirty years of education?—A. No, sir.

Q. How many years' education would it require to qualify a native Eskimo for citizenship in the United States?—A. I think the present generation, or the generation that are growing up. Mr. Cochran, will probably be fit enough to vote, but not the older ones, as we know them now.

Q. What do you mean by the generation that are growing up?—A. The younger men of 14 or 15 years, and the girls that are growing up.

Q. Is it not a fact, so far as the natives go in the jurisdiction where you have been working, and at the points where you have been working, that the natives you term the present generation are the ones that give, in reality, more trouble than the older ones?—A. Just how do you mean by "trouble"?

Q. More trouble to the Bureau of Education, or the officials of the Territory?—A. I think the more civilized a nation becomes that is one of the developments and processes of civilization.

Q. To give trouble?—A. Yes, sir.

Q. You have never been in Unalakleet?—A. No, sir.

Q. Your experience has been entirely to the northward?—A. To the north and to the south; southwestern Alaska, and with the Indians.

Q. How long would it be, in your opinion, before the natives that you are familiar with could be qualified for citizenship?—A. I think the generation that are growing up, the younger boys and girls that are growing up—children that are attending school now—there will be a number of those that will be qualified to vote.

Q. Just what do you understand is essential to qualify a person for citizenship, as applied to the native races?—A. I think that they should understand the principles of government, and they should get to the point where they should be able to decide things for themselves.

Q. They have quite keen acumen in deciding things for themselves?—A. Yes, sir; in things that relate to their own lives.

Q. Do you understand that Congress has provided for the Indian races, of which the Eskimo are a part, a means for their attaining citizenship in the Nation?—A. Yes, sir.

Q. Do you understand that to be when they have abandoned their nomadic habits, and have assumed the customs and habits of civilization, that they ipso facto become citizens; do you understand that?—A. I understand that.

Q. Have you ever been up to the village of Norvick?—A. Yes, sir.

Q. The natives there are pretty well advanced in self-government, are they not?—A. Well, it is four years ago since I was up there.

Q. They have a telephone system, haven't they?

Mr. O'NEILL. Object on the ground the testimony is too remote.

A. I don't think they have a telephone system.

Q. I am telling you they have, and you ought to know it; Mr. McQuire knows it. They have an electric-light system, haven't they?—A. They have an electric-light system.

Q. They have a council for their own government, have they not?—A. Yes, sir.

Q. And they have a wireless station?—A. Yes, sir.

Q. They have, so far as you have learned, a well-governed village?—A. Yes, sir.



Q. I believe they have a cooperative store, haven't they?—A. Yes, sir.

Q. Schools?—A. Yes, sir.

Q. Of a high character?—A. Yes, sir.

Q. You have not been there for four years?—A. For four years.

Q. Now, those villages are upon the road to rapidly acquire citizenship, aren't they?—A. Yes, sir.

Q. And it has not been very long since they have started to advance in that manner, has it?—A. No, sir; it has not been very long.

Q. How many years ago did they start in the rapid advancement of that village—four or five years ago?—A. Four or five years ago, I think.

Q. The natives you are testifying about, Mr. Evans, are natives that have not learned much of the English language, except sufficient to hold a conversation, just an ordinary conversation?—A. Ordinary conversation.

Q. To make their wants known?—A. Yes, sir.

Q. They don't read English, don't read the newspapers, do they?—A. No, except the young people, the older people do not.

Q. I mean among the natives you are testifying about, the ordinary natives?—A. Not in the habit of, no.

Q. Such as are depicted in the pictures are not natives who read the newspapers, or are interested in the events of the day? The general run of those people in these pictures are not natives that read newspapers?—A. Some of them are amongst our most intelligent natives.

Q. There are some of the natives that are depicted in those who are not a character of native that take an interest in the Government, or read the newspapers?—A. I should say not.

Q. Some of them do?—A. Some of them do.

Q. Some are very eager to read newspapers?—A. Yes, sir; they are.

Q. And are very much interested in the affairs of Government?—A. Yes, sir.

Q. And are approaching close to a state of civilization you think would entitle them to exercise the right of franchise?—A. They are, in a way.

Q. They are approaching very rapidly, aren't they?—A. Yes, sir; approaching very rapidly.

Q. Now, the real danger of the native voting, they would be influenced largely by the missionaries and teachers, wouldn't they?—A. And others.

Q. We will talk about the others in a moment. You say others would not have much chance with the teachers and missionaries there?—A. No; I don't think they would.

Q. So that if the natives were allowed to vote, the natives that you have in mind—the natives with whom you have dealt and had supervision over—they would be governed largely by the Bureau of Education, wouldn't they?—A. And the missionaries.

Q. In their vote?—A. Yes, sir.

Redirect examination by Mr. O'NEILL:

Q. You don't mean to say that the Bureau of Education would influence their vote, one way or the other?—A. I don't think they would; absolutely not.

Q. Did you ever hear two natives discuss any politics whatsoever?—A. I have only heard of one case in my life where a native has taken any interest in politics.

Q. In other words, their advancement is along the lines of manual efforts, such as boatbuilding, carpenter work, and such as that?—A. Yes, sir.

Q. And that is encouraged by the Bureau of Education?—A. Yes, sir.

Q. The function of your bureau is to make the native more useful to himself?—A. That is it.

Q. To make the native self-supporting?—A. It is up to the bureau to make them self-supporting.

Q. Do you know whether they have any local government at Unalakleet, such as they have at Norvick?—A. I could not say, positively; I understand they have local self government, same as practically all other villages have.

Q. That is a movement instituted by the Bureau of Education?—A. Yes, sir.

Q. State the substance of that movement?—A. It consists in having the natives of a village hold a meeting, elect a mayor and council, who practically run the village, and they try, as far as possible, to run it the same as an incorporated town.

Q. And they take care of petty offenses, etc.?—A. Yes, sir.

Q. And have a native court?—A. In some places they have.

Q. That is for the purpose of local self-government?—A. For the purpose of local self-government and also to instruct them in government generally.

Q. Have they an electric-light plant at Unalakleet?—A. I don't know.

Q. Or a wireless?—A. No, sir; they have no wireless.

Q. Is there a native school at Unalakleet?—A. Yes, sir.

Q. How long has it been there?—A. Been there for many years; I could not tell you how many years; it is only recently that Unalakleet has been included in my district.

Q. There are some names on this list—Taktook and Mallock—do the civilized natives adhere to their original names or take other names?—A. Adhere to their original names.

Q. The civilized ones do?—A. Yes, sir; that is my observation.

Q. In a case like Samuel Anaruk, the "Samuel" is unquestionably an English name?—A. No; probably given to him by his parents at the request of the missionary; the missionary generally does that.

Recross-examination by Mr. COCHRAN:

Q. Do you know anything about the natives at St. Michael, Mr. Evans?—A. Very little.

Q. Have you been over there?—A. Yes, sir.

Q. Different times?—A. No; just once.

Q. See the natives over there?—A. I saw them; yes, sir.

Q. The natives over there are like the natives all over the peninsula?—A. Generally, except there are more half-breeds there.

By Mr. O'NEILL:

Q. The natives at St. Michael are half-breed Russians, are they not?—A. I could not say they are half-breed Russians; I saw very few of them that had Russian blood in them.

Q. Very few?—A. Yes, sir.

Q. From what you observed, the natives at St. Michael average up generally with the natives of the peninsula?—A. Yes, sir.

Q. Just as the natives of Unalakleet do?—A. I have only seen two or three—at the outside a dozen—of the Unalakleet natives; I should imagine they averaged up about the same.

By Mr. GRIFFITH:

Q. I would like to ask Mr. Evans a question: Last fall, Mr. Evans wasn't there a paper or pamphlet issued here called the Eskimo?—A. Yes, sir.

Q. Was that published by the Eskimos under the Bureau of Education?—A. Well, it was published unofficially by the Bureau of Education.

Q. Well, at different times, didn't natives write pieces for that paper?—A. Yes, sir; they did.

Mr. COCHRAN. And some of them very intellectual, too.

Mr. O'NEILL. They are intellectual for a native; I wish I had a few copies of the paper to put into the record.

Mr. COCHRAN. I think I can furnish them.

Mr. O'NEILL. If you do, I will put them in.

The WITNESS. I can furnish you with some.

E. D. EVANS.

Subscribed and sworn to before me this 14th day of October, 1919.

[SEAL.]

L. E. WEITH,

*Notary Public for the Territory of Alaska.*

My commission expires November 14, 1921.

#### DEPOSITION OF J. H. MAGUIRE.

J. H. MAGUIRE, being first duly sworn, testified on behalf of the contestee as follows:

Direct examination by Mr. O'NEILL:

Q. What is your business, Mr. Maguire?—A. I am at the present time superintendent of the northwestern district.

Q. Under the Bureau of Education?—A. Under the Bureau of Education.

Q. How long have you been in the second division?—A. Since 1908.

Q. How long have you been in the employ of the Bureau of Education?—A. Since 1911.

Q. Are you familiar with the natives generally in Seward Peninsula?—A. Yes, sir.

Q. State whether or not, in your opinion, the natives of Seward Peninsula, generally, are qualified to vote?—A. I think not.

Q. Would you consider that any appreciable number of them, say 5 per cent, were qualified to vote?—A. No.

Mr. COCHRAN. I think that is correct. I would concede they are not generally qualified to vote.

Mr. O'NEILL. Is it your contention that the natives of Unalakleet are far above the average native on Seward Peninsula?

Mr. COCHRAN. Yes.

Mr. O'NEILL. That is the exceptional village on the peninsula?

Mr. COCHRAN. I think it is one of the great exceptions on the peninsula; that and Norvick.

Q. Have you ever seen any of the natives of Unalakleet?—A. Not to my knowledge.

Q. What places have you seen the natives?—A. Nome, Cape Prince of Wales, Kotzebue, Norvick, Notak, Kiana, Kivilina, Tigara, and Selawik.

Q. Out of the villages you have mentioned, which are the most intelligent natives?—A. I am prejudiced in favor of Kivilina natives.

Q. Do you think that even the Kivilina natives have attained that standard of civilization that would entitle them to the suffrage?—A. No, sir.

Q. Would you be willing to live under a government run by natives?—A. No, sir.

Q. Do you think that it is to the best interests of the people generally to permit the natives to vote, by reason of his educational and other qualifications?—A. No.

Q. I show you this bunch of pictures and ask you if those pictures are typical of the mode of livelihood of the natives?—A. They are.

Cross-examination by Mr. COCHRAN:

Q. What do you mean, "Typical of the mode of livelihood of the natives"?—A. You will find representatives of the reindeer industry, hunting, and modes of life.

Q. You don't find anything except where they have caught some fish, down on the beach at Nome, and with a few reindeer?—A. Caught some seal.

Q. I don't see any seal.—A. You will see a woman cutting a seal—dissecting a seal.

Q. They represent fishing and sealing and reindeer. Is that all the industries of the natives?—A. Well, there is no fur taking or no trapping there.

Q. Which is a big industry with the natives?—A. Yes, sir.

Q. They do a good deal of it?—A. Yes, sir.

Q. Do a lot of hunting?—A. Yes, sir.

Q. You rather mean to say that these are typical native pictures in some of the avocations?—A. Yes, sir.

Q. And in some of their trades?—A. Yes, sir.

Q. And that is all you mean to say about these pictures, isn't it?—A. About those; yes, sir.

Q. And those are pictures that are taken around Nome largely?—A. Nome and Marys Igloo.

Q. You never were at Unalakleet?—A. No, sir.

Q. And never saw any natives from Unalakleet that you know of?—A. No, sir.

Q. Now, you know where the village of Norvick is?—A. Yes, sir.

Q. That is a very progressive village, isn't it?—A. Yes, sir.

Q. Governed entirely by the natives there?—A. Under the supervision of the Government teachers.

Q. I know it is. But the direct government is by the natives—by a council of natives?—A. Yes, sir.

Q. And they make their own laws and have their local government, do they not?—A. Yes, sir.

Q. And have their own officers?—A. Yes, sir.

Q. And a cooperative store?—A. Yes, sir.

Q. Telephones?—A. Yes, sir.

Q. Electric lights?—A. Yes, sir.

Q. Good schools?—A. Sawmill also.

Q. Wireless station?—A. Yes, sir.

Q. Get the news in there regularly? They get news in there over the wireless?—A. They get news in there, but not regularly.

Q. They are eager to get it?—A. Yes, sir.

Q. Take great interest in the events of the day, do they not?—A. Yes, sir.

Q. And schools?—A. There is a Government school there.

Q. A good school?—A. Yes, sir.

Q. The natives live in good houses, do they?—A. All wooden; log houses.

Q. Comfortable?—A. Yes, sir.

Q. Well furnished?—A. Well furnished; yes.

Q. Sleep in beds?—A. Some.

Q. Some sleep in beds?—A. Yes, sir.

Q. Now, how far is Norvick from Nome?—A. About 400 miles.

Q. North of Nome?—A. Northeast of Nome.

Q. How far from the coast, Arctic Ocean?—A. Ninety miles from Kotzebue.

Q. Ninety miles inland?—A. On the Kobuk River.

Q. How many people are there there; how many people in the village?—A. About 440.

Q. Children of school age are sent to school by the parents?—A. Yes, sir.

Q. Have churches?—A. Yes, sir; one church.

Q. Now, you answered Mr. O'Neill you would not like to live in a Government ruled by the natives, which, of course, you would not?—A. Government? You mean local or national?

Q. You answered you would not like to live in a country governed by natives?—A. No, sir.

Q. Certainly not. But when a native has abandoned his uncivilized habits, and adopted the modes and habits of civilization, such as you and I, do you object to their voting; do you think their voting would be dangerous?—A. At this time; yes, sir.

Q. You think it would be still dangerous at this time?—A. Yes, sir.

Q. Even though they had abandoned their nomadic habits, and adopted the modes and customs of civilization, you think they would not be ready to vote; that is correct?—A. That is my opinion.

Q. That is what you mean when you say you would deny them the right to vote?—A. Yes, sir.

Q. Even though they had abandoned their nomadic habits, and adopted the modes and customs of civilization, such as you and I follow?—A. When they prove themselves capable of understanding our form of government, then I would grant them the franchise.

Q. You would require greater qualifications than they have abandoned their nomadic habits and adopted the customs and habits of civilization?—A. Yes, sir.

Q. You would require more than that?—A. Yes, sir.

Q. In other words, you would like to have them on a probationary period for some time to see that they understood; that is your idea?—A. Yes, sir.

Q. Mr. Maguire, have you ever been over at St. Michaels?—A. No, sir.

Q. And you have no knowledge of the natives to the eastward of Nome?—A. No, sir.

Q. In the Unalakleet section, you know nothing about them over there?—A. No, sir.

Redirect examination by Mr. O'NEILL:

Q. Do you know if the natives know the difference between the Democratic Party and the Republican Party?—A. The younger natives do.

Q. Do you know whether or not the older do?—A. No, sir.

Q. Do you know whether or not the older natives take any interest in politics?—A. Very little.

Q. Did you ever hear ~~them~~ discuss a political situation, or discuss the various parties?—A. Not the older natives; no.

Q. By the younger generation, what ages do you mean?—A. From 15 to 20, probably. I say that as a fact, gentlemen, because the native I am familiar with is the northern native, who has had school privileges for more than 12 years, so that they are quite competent to understand our Government.

Recross-examination by Mr. COCHRAN:

Q. The natives up in the northern country are entirely different people from the natives down in this part of the country, so far as qualifications are concerned, are they not?—A. I would not compare the northern natives with the Nome or the Cape Prince of Wales natives.

Q. And it is the northern native mostly you have addressed your remarks to?—A. Yes, sir.

By Mr. O'NEILL:

Q. You consider the northern native superior to the Nome native?—A. I do.

Q. You do not think any native around Nome would be a fit constituent for any candidate—for him to exercise the elective franchise?—A. The Nome native, no.

Q. Not any of the squalid natives that are around Nome?—A. I think not.

Q. You have observed them considerably?—A. Yes, sir.

Q. And they live more or less in squalor, do they not; not cleanly about their houses?—A. I found the Nome native's home more disorderly than any homes in the north; than any native homes in the north.

By Mr. COCHRAN:

Q. There is just as much difference between the natives as to their intellectual attainments as there is between other races of people?—A. Yes, sir.

By Mr. O'NEILL:

Q. Mr. Maguire. I want to ask you if that wireless at Norvick is operated by the natives or white people?—A. There are two native assistants who can receive wireless dispatches, but can't send.

JAMES H. MAGUIRE.

Subscribed and sworn to before me this 14th day of October, 1919.

[SEAL.]

L. E. WEITH.

*Notary Public for the Territory of Alaska.*

My commission expires November 14, 1921.

TERRITORY OF ALASKA.

*Second Division, ss:*

This is to certify that the foregoing depositions were taken upon oral questions made and oral answers given, and taken in shorthand by O. H. Lamoreux, under my instructions and directions, and immediately thereafter transcribed by him, and after being so transcribed were read and examined and corrected by the witnesses, T. P. Killeen, E. D. Evans, and J. H. Maguire, who thereupon signed their names to the said depositions. That before said depositions were taken the said stenographer, O. H. Lamoreux, was duly sworn to correctly report the said testimony in shorthand, and correctly transcribe the same, to the best of his ability; and the same is a true and correct statement of the depositions made by the said witnesses at the time and place above mentioned. That exhibits from A to U, inclusive, attached hereto, are all the exhibits introduced at the taking of said testimony.

In witness whereof I have hereunto set my hand and affixed my official seal this 14th day of October, 1919.

[SEAL.]

L. E. WEITH.

*Notary Public for the Territory of Alaska.*

My commission expires November 14, 1921.



## CONTESTEE'S EXHIBIT A.

In the District Court for the District of Alaska, Second Division. Certified copy election register and certificate of judges of election in re election held in Unalakleet precinct, November 5, 1918.

No.	Name.	Residence.	Voted.
1	Leo Povelick.....	Unalakleet Alaska.....	Yes.
2	R. E. Ragon.....	do.....	Yes.
3	E. C. Bradley.....	do.....	Yes.
4	Harry Michael.....	Klickatawick.....	Yes.
5	Justice Pickmicktalick.....	Unalakleet.....	Yes.
6	Moody Etageak.....	do.....	Yes.
7	Evan Eakan.....	do.....	Yes.
8	Arthur Soxie.....	do.....	Yes.
9	Monroe Gononnan.....	do.....	Yes.
10	Epoklook Eakan.....	do.....	Yes.
11	Roy A. Buck.....	do.....	Yes.
12	Stephan Ivanoff.....	Shaktolik.....	Yes.
13	M. Ivanoff.....	do.....	Yes.
14	Thomas Ettega.....	Egavik.....	Yes.
15	Shafter Tosavick.....	do.....	Yes.
16	Harry Soxie.....	Unalakleet.....	Yes.
17	O. Rock.....	do.....	Yes.
18	Victor Anazick.....	do.....	Yes.
19	Grant Gononnan.....	do.....	Yes.
20	Mrs. George Kottok.....	do.....	Yes.
21	George Kottok.....	do.....	Yes.
22	Maurice A. Johnson.....	do.....	Yes.
23	Aaron Paneok.....	do.....	Yes.
24	Frank M. Beeson.....	do.....	Yes.
25	Joseph Katchatuk.....	do.....	Yes.
26	Charley Atomus.....	do.....	Yes.
27	Savilik.....	Egavik.....	Yes.
28	Benjamin Katchik.....	Unalakleet.....	Yes.
29	Chas. A. Treager.....	do.....	Yes.
30	Melbis Gononnan.....	do.....	Yes.
31	Marion Gononnan.....	do.....	Yes.
32	Clara Tom.....	do.....	Yes.
33	Minnie Wilson.....	do.....	Yes.
34	Wilson Gononnan.....	do.....	Yes.
35	Bekabuck.....	Shaktolik.....	Yes.
36	Simon Sagonick.....	Unalakleet.....	Yes.
37	Frank Katchak.....	do.....	Yes.
38	Helga Katchatag.....	do.....	Yes.
39	Carrie Soxie.....	do.....	Yes.
40	Samuel Anaruk.....	do.....	Yes.
41	Mrs. Samuel Anaruk.....	do.....	Yes.
42	Eva Rock.....	do.....	Yes.
43	Anna E. Karlson.....	do.....	Yes.
44	Mary Power.....	do.....	Yes.
45	Margaret Johnson.....	do.....	Yes.
46	Johnny Tom.....	do.....	Yes.
47	Katchak.....	do.....	Yes.
48	Susie Beeson.....	do.....	Yes.
49	Thora Susook.....	do.....	Yes.
50	Agnes Ryan.....	do.....	Yes.
51	Hans C. Larson.....	do.....	Yes.
52	Ernest Paneok.....	do.....	Yes.
53	N. Strong.....	do.....	Yes.
54	Mrs. Katchatag.....	do.....	Yes.
55	Mallock.....	do.....	Yes.
56	Washolook.....	do.....	Yes.
57	Taktook.....	do.....	Yes.
58	Mrs. O. Rock.....	do.....	Yes.
59	Mrs. Amy Anagick.....	do.....	Yes.

## CERTIFICATE.

UNITED STATES OF AMERICA,

*Territory of Alaska, Second Division, ss:*

We, Frank M. Beeson and Aaron Paneok and Maurice A. Johnson, respectively, judges and clerks of election, constituting the election board for Unalakleet voting precinct or precinct No. 2 of the St. Michael recording district, or town of Unalakleet, second division, Territory of Alaska, do hereby certify that the within and foregoing election register, containing 2 and a part written pages, constitutes a true and correct list of all the names of and all data re-

quired by law relative to all persons who voted or offered to vote at the election held in said voting precinct, Territory of Alaska, second division, on the 5th day of November, 1918, and that the total number of persons voting was 59.

Dated at Unalakleet, Alaska, this 5th day of November, 1918.

FRANK M. BEESON,  
AABON PANEOK,  
MAURICE A. JOHNSON,  
*Judges.*

(Indorsed :) Duplicate general election register and tally book for Unalakleet voting precinct No. 2. St. Michaels recording district or town of Unalakleet division No. 2, Territory of Alaska. November 5, 1918. Filed in the office of the clerk of the district court of the Territory of Alaska, second division, at Nome. November 16, 1918. Thos. McGann, clerk.

UNITED STATES OF AMERICA,

*District of Alaska, Second Division, ss:*

I, Thos. McGann, clerk of the district court for the District of Alaska, second division, do hereby certify that I have compared the foregoing copy with the original duplicate general election register of voters, and certificate of judges of election in re general election held in Unalakleet precinct, November 5, 1918, now on file and of record in my office at Nome, in the District of Alaska, and the same is a true and perfect transcript of said original and of the whole thereof.

Witness my hand and the seal of said court this 14th day of October, A. D., 1919.

[SEAL.]

THOS. MCGANN, *Clerk.*

#### CONTESTEE'S EXHIBITS B TO U.

(Pictures of Esquimaux. Omitted in printing.)

#### NOTICE OF TAKING OF DEPOSITION.

*To the contestant above named, Henry T. Ray and Morton E. Stevens, his agents.*

Notice is hereby given that the depositions of H. Claude Kelly and John Moe, witnesses on behalf of the contestees above-named, will be taken before Richard H. Geoghegan, a notary public for Alaska, at the office of John A. Clark, at the corner of Cushman Street and Second Avenue, in the town of Fairbanks, at the hour of 8 o'clock p. m., on Thursday, October 16, 1919.

JOHN A. CLARK,

*Attorney for contestee, George B. Grigsby.*

Receipt of the foregoing notice, and a copy thereof is acknowledged this 13th day of October, 1919.

HENRY T. RAY,  
*Agent for contestant.*

#### SUBPÆNA.

To JOHN A. MOE,  
*Fairbanks, Alaska.*

You are hereby directed to appear before the undersigned, a notary public in and for the Territory of Alaska, at the office of John A. Clark, at the corner of Third and Cushman Streets, in the town of Fairbanks, Alaska, at 8 o'clock p. m., on Thursday, the 16th day of October, A. D. 1919, then and there to testify as a witness on behalf of the contestees above-named.

Dated at Fairbanks, Alaska, this 13th day of October, A. D. 1919.

[SEAL.]

RICHARD H. GEOGHEGAN,

*Notary Public in and for the Territory of Alaska.*

Service of the foregoing subpoena and receipt of a copy thereof acknowledged this 13th day of October, A. D. 1919.

JOHN A. MOE.

This is to certify that, on the 16th day of October A. D., 1919, at the office of John A. Clark, in Fairbanks, Alaska, pursuant to notice, the deposition of John A. Moe, a witness on behalf of contestees named above, was taken before

Richard H. Geoghegan, a notary public in and for the Territory of Alaska. Present: Morton E. Stevens and Henry T. Ray, representing the contestant, and John A. Clark, attorney for contestee George B. Grigsby.

DEPOSITION OF JOHN A. MOE.

JOHN A. MOE, being first duly sworn, testified as follows:

By Mr. CLARK:

Q. Your name is John A. Moe?—A. Yes, sir.

Q. Are you a citizen of the United States?—A. Yes, sir.

Q. Are you over the age of 21 years?—A. Yes, sir.

Q. How long have you resided in and about the town of Fairbanks?—A. Fourteen years, approximately.

Q. Are you acquainted with E. W. Brown, who resides in Brooks, Alaska?—A. Yes, sir.

Q. Have you had any conversation with Mr. E. W. Brown since the time of the election—since the 5th day of November, 1918—relative to whom he voted for at said election for Delegate to Congress?

Mr. STEVENS: We object to the question as calling for hearsay evidence; a proper foundation has not been laid to introduce such evidence; and there is no issue in this case as to the legality or illegality of the vote of E. W. Brown.

A. I have heard—

Mr. CLARK. Answer the question by "yes" or "no."

A. Yes, sir.

Q. Where did the conversation take place?—A. At Brooks.

Q. Who was present?—A. One of them was a fellow by the name of Spool. I think Ringseth was there also—

Q. Paul Ringseth?—A. Yes; I think he was, but I would not swear positively; and they were discussing the Wickersham problem, and during that discussion Brown says—

Mr. STEVENS. We object to this question, proper foundation not having been laid for its introduction, and that the same is incompetent, irrelevant, and not within the issues raised herein.

Mr. CLARK. Where did the conversation take place?

A. The conversation took place on the streets—on the streets of Brooks.

Q. What was said in the conversation relative to the Wickersham and Sulzer matter?

Mr. STEVENS. We make the same objections as heretofore stated.

A. They were talking politics in general, and he says he was a "Wickersham" and voted for Wickersham. "We voted for Wickersham," he says.

Q. Whom did he refer to as having voted for Wickersham?—A. Well, somehow it was referred to, and he looked at me as he said it, he voted for Wickersham.

Q. Was it after this election of November 5, 1918?—A. Yes; it was in August last.

Q. Do you know Martin Claich?—A. Yes, sir.

Q. Have you had any conversation with him since the 5th day of November, 1918, relative to whom he voted for at the election of November 5, 1918?—A. Yes, sir.

Q. Where did the conversation take place?—A. Once at the Fairbanks corner—

Q. In Fairbanks?—A. In Fairbanks, at the cigar store of Hoyt & Kelly.

Q. Did you have more than one conversation with him?—A. Yes; a number of them.

Q. Now, referring to the one at the Fairbanks cigar store of Hoyt & Kelly, when did that take place?—A. That took place on the election day a year ago last November, in 1918.

Q. On election day in 1918?—A. Yes; election day in 1918, between 3 and 4 o'clock in the afternoon.

Q. Who was present?—A. There was a crowd there, but the one that was present—the reason I know it, Tom McKinnon was present for one, and a fellow, a big Austrian, I can't remember his name, was too—the house was full of people, but they two was there when he made the remark.

Q. What did he say at that time, relative to whom he voted for?

Mr. STEVENS. We object, for the reason that the proper foundation has not been laid for such testimony; that the same is hearsay, irrelevant, incompetent, and not within any of the issues in this case.

A. It was a discussion, you know, of politics—election day—and there was some betting going on, and he says "We Wickersham men will show you fellows what we will do," and I says, then I made the remark: "We will show you what we will do." But I had a conversation with him a number of times, not only here, but also in Brooks.

Q. Have you had any conversation with him since election day, wherein he made any statements relative to whom he voted for at the election of November 5, 1918?—A. I have.

Q. Where did the conversation take place?—A. One time—twice—at Brooks, that he made that remark; he says, "You're damn right, I voted for Wickersham, and I am proud of it."

Mr. STEVENS. We should like to have it understood that the objection heretofore made to this testimony is made to all like testimony of this witness, for the reasons heretofore given under the former objections.

Mr. CARK. All right; it may be.

Q. Who was present when he made the statements concerning which you have just testified?—A. At Brooks?

Q. Yes.—A. Cosslett—

Q. Al Cosslett?—A. Al Cosslett was one, Cal Franklin was two; well, it was a crowd that must have been 15 or 20. Dan Hill, the collector, was there and Paul was there, too, I think. We had a discussion.

Q. Where did it take place?—A. In Cosslett's cigar store.

Q. Do you know William Canning?—A. Yes, sir.

Q. Did you at any time since the 5th day of November, 1918, hear Mr. Canning state for whom he voted for Delegate to Congress from Alaska at the election of November 5, 1918?

Mr. STEVENS. We object to the question, for the reason that the same is incompetent, irrelevant, hearsay, proper foundation not having been laid, and it is not within any issue herein.

Q. Answer the question "yes" or "no."—A. After, you say?

Q. Since the election.—A. On election day was the day—on election day.

Q. Were you talking to him, or did you hear him talking to others?—A. I was partially talking to him and partially others in the crowd.

Q. Where was the crowd?—A. Hoyt & Kelly's here; and he says: "I just come from the polls," he say, and—

Mr. STEVENS. We object for the reasons heretofore stated.

Q. Who was present at the time, if you remember?

Q. Who was present at the time, if you remember?—A. I can't remember exactly; it was a crowd. Abe Stein—when they was coming over, Abe Stein was standing by the window there, and they were discussing it—the election—you know, and I think Martin Clach was in—

Q. Martin Clach, you mean?—A. Yes; Martin Clach; and I think one that was in—I don't know whether he heard it or not—and another that heard it at that time was—let me see—what is his name—a big, tall Scotchman that lives up here on Seventh Street; I know his name; I can't think of it at present—

Q. What was said by him at that time?

Mr. STEVENS. We object, for the reasons heretofore stated.

A. He was talking to us—we were talking, some betting going on, you know—on Nordale's election. We just come from the polls. "That is a good Wickersham vote" I says. "You bet it is" he says.

Q. Do you know where E. W. Brown resided—where his residence was—on the 5th of November, 1918?—A. Yes; he lives in Brooks; that is, he lives at West Forks.

Q. Do you know where he voted?—A. He voted here, according to the lists.

Q. Now, Martin Clach—where did he reside on the 5th day of November, 1918?—A. Here.

Q. Do you know where he voted?—A. Here.

Q. Did you see him in town—here in town—that day?—A. Yes, sir.

Q. He had just come from the polls?—A. I don't know.

Q. Where did William Canning live on the 5th day of November, 1918?—A. He lived at Dome.

Q. Do you know whether he voted here at Fairbanks?—A. Yes; he said so.

Q. Do you know D. L. Green?—A. Yes, sir.

Q. Where does D. L. Green reside?

Q. Where does D. L. Green reside?—A. D. L. Green lives at Hot Springs; he is running a roadhouse at Hot Springs.

Q. How long has he been running that roadhouse?—A. Green was running that roadhouse, I think, about a year and a half or two years; he has been down there. On my way in the latter end of October I stayed at his place.

Q. October of what year?—A. Previous to the election.

Q. Do you know where he voted on that day?—A. He voted here.

Q. Did you ever have any conversation with Green relative to whom he voted for at the last election?—A. Not after election; no; I didn't.

Q. Did you ever have any conversation with him before that on the general subject of the political situation as regards Wickersham and Sulzer?—A. Yes.

Q. Where did the conversation take place?—A. At the road house at Hot Springs.

Q. How long before the election?—A. That was approximately a couple of weeks before election.

Q. Who was present at that time?—A. At that time, it was Spencer, of Circle, was one of them—

Q. Deputy Marshal Spencer?—A. Deputy Marshal Spencer; and Allard was there—

Q. E. P. Allard, the mail carrier?—A. Yes; he was in it; I don't know whether he heard.

Q. What was said at the time as to whom he voted for?

Mr. STEVENS. We object, for the reason that the question is immaterial, incompetent, hearsay, and not within any issue raised in this case, and no proper foundation has been laid for the testimony.

A. We were discussing Wickersham, and I says to him, "You are a pretty strong Wickersham man." He says, "You bet I am a strong Wickersham man." he says; "I always will vote for Wickersham as long as I am in Alaska," or words to that effect.

Q. Do you know where Green voted at the election on November 5, 1918?—A. he voted here.

Q. By "here" you mean in the Fairbanks precinct?—A. The Fairbanks precinct.

Q. Do you know Ernest Peterson?—A. Yes, sir.

Q. Where did Ernest Peterson live on the 5th day of November, 1918?—A. At Brooks.

Q. What business was he engaged in there?—A. Mining.

Q. Do you know where he voted at the election on November 5, 1918?—A. Yes; he voted here in town; he was visiting here.

Q. Have you ever had any conversation with Ernest Peterson relative to whom he voted for at the election of the 5th of November, 1918?

Mr. STEVENS. We object to the question for the reason that the same is immaterial, incompetent, irrelevant, not within the issue, hearsay.

A. He told me himself.

Q. Did you ever have any conversation with him?—A. Yes, sir.

Q. Where did the conversation take place?—A. At Brooks, this fall.

Q. This fall?—A. This last August.

Q. Of 1919?—A. Yes, sir.

Q. Where did the conversation take place?—A. Him and I was talking in general; it was taking place on the claim one time, and it was another time in the cigar store—in the store of Mahan—and the second time it was sitting—he was watching the water on his claim and I come down and sat down and we talked it over.

Q. Was there anyone else present?—A. Not at the time him and I was sitting, on the second time; but the first time—that was in Mahan's store—and I put it direct to him, and I says "Ernest, you always voted for Wickersham," and he says, "Yes; we always did"—he was talking about himself and his brother.

Q. What was said at the conversation on the claim?—A. It was simply that we were talking in a general way, the merits, you understand, of the two candidates, and he was advocating, you understand, that Wickersham—he referred to the contest of this election. We were talking together, and he said that Wickersham would win, and I said "You wait and see; we will beat the Wickersham men," and he says "You can't beat us. Wickersham is going to win."

Q. Do you know E. R. Peoples?—A. Yes.

Q. Where did E. R. Peoples reside on the 5th day of November, 1918?—A. I would think in Fairbanks, of course.



Q. How long have you known E. R. Peoples?—A. Well, I don't know; I have known him almost since him and I come to the camp. I have known Peoples for the last 12 years, that I remember. The first I had any dealings with Peoples that I remember was in 1908.

Q. What business was he in?—A. The general merchandise business.

Q. Under what name?—A. Peoples & Co.

Q. Wasn't it E. R. Peoples and then E. R. Peoples (Inc.)?—A. Yes; E. R. Peoples (Inc.).

Q. Did he make his home in Fairbanks?—A. Yes, sir.

Q. And did his wife live here?—A. At that time I think his wife had gone outside.

Q. Where was he in 1918?—A. At Brooks.

Q. Did he have any residence at Brooks?—A. No; he was just over there.

Q. Did you ever have any conversation with Peoples since the 5th day of November, 1918, in regard to whom he voted for at the last election?—A. Yes, sir.

Q. Where did that conversation take place?—A. In the Arcade Café here in town.

Q. The Arcade Café in Fairbanks?—A. Yes; I was joshing him there—

Q. About when did that take place?—A. Probably about three weeks or a month after election.

Q. Who was present at the time, if you remember?—A. I don't remember; we were sitting up to the lunch counter, him and I, talking.

Q. Just tell what was said at that time.

Mr. STEVENS. We object, for the reason that it is incompetent and immaterial; the proper foundation has not been laid; the same is hearsay, and not within the issues in this case.

A. I was joshing him—Peoples—about him going over to Brooks and voting, and I said, "You had to go away from home to vote over there, to get a good vote for Wickersham." He says, "Wickersham will get a good vote anyway." and I says, "You lost the town." "Yes," he says, "we lost the town, but it wasn't my fault. I certainly done good work for Wickersham."

Q. Do you know Sylvester Howell?—A. Yes, sir.

Q. Where did Sylvester Howell reside on the 5th day of November, 1918?—A. He always has so far as I know—ever since I know him—his residence has been down at Hot Springs.

Q. What business has he been engaged in?—A. Mining at Hot Springs.

Q. Do you know where he voted in that election of November 5, 1918?—A. He voted here.

Q. Was it here or some other place?—A. Sylvester Howell—he voted at Nenana.

Q. Have you ever had any conversation with Howell since the election of November 5, 1918? As to whom he voted for at that election?—A. In a conversation in the Tanana Club.

Q. When did that take place?—A. In the Tanana Club. It was—I think it was—somewhere about the middle of January following, we were discussing in the club that Wickersham would contest the election.

Q. Who was present at the time?—A. Well, I can not say. One that was sitting there when we were talking was the then chief of police—

Q. Mr. Frank Wiseman?—A. Mr. Frank Wiseman, he was there, and I think that Mark Manson or Frank Lawson—I don't know which—but there were quite a number, must have been half a dozen or such, members of the club, and the talk was relative to whom they voted for—

Mr. STEVENS. We object, for the reason that the same is hearsay, incompetent, irrelevant, not within any issue herein, and proper foundation has not been laid.

Q. Go on and tell about it.—A. He was talking, him and Frank Lawson was discussing it, and he says—Frank Lawson—it was something that come up and Frank Lawson made the remark about "You Wickersham men," and "You voted for Wickersham," or they would be working for him—something to that effect—and Howell answered: "We will never be sorry for voting for Wickersham," he says. But the conversation was not directed to me, you know, it was simply where he acknowledged that he voted for Wickersham in a dispute, or a conversation rather, with another man; just talking around there.

Q. Do you know whether or not there is a voting precinct at Brooks?—A. Yes; there was.

Q. Do you know whether there was a voting precinct at Hot Springs?—A. Yes, sir.

Q. Was there a voting precinct at Dome?—A. Yes, sir.

Q. Was there one at Nenana?—A. Yes, sir.

Q. Do you know whether there was a voting precinct at Fairbanks?—A. Yes, sir.

Q. What territory does it take in?—A. The city of Fairbanks.

Mr. CLARK. That is all. You may cross-examine.

By Mr. STEVENS:

Q. What official position do you now hold, Mr. Moe?—A. Special officer for the suppression of the liquor traffic.

Q. An appointment from Gov. Riggs?—A. No; an appointment from Lane.

Q. From Secretary Lane?—A. Secretary Lane by recommendation of Gov. Riggs.

Q. How long have you been in that office?—A. Since August a year ago; the 1st of August.

Q. What political position, if any, do you hold in Alaska?

Mr. CLARK. We object, as absolutely immaterial.

Q. Go ahead.—A. Political? I don't know as I have any political position. I used to hold the proxies for Mr. Griffin.

Mr. CLARK. He doesn't mean that, Mr. Moe.

Q. You have heretofore held the office or position of Territorial committeeman, haven't you?

Mr. CLARK. Objected to as immaterial and incompetent.

A. I have not.

Q. Did you ever hold the position of national committeeman in Alaska?—A. No; I have not.

Q. You have been a member of the Democratic Party for a great number of years, haven't you?—A. I have; since 1880.

Q. For several years last past, in Alaska?—A. Yes, sir.

Q. You have taken quite an active part in politics on behalf of the Democratic party, haven't you?—A. I have.

Q. Did you make any bets on Sulzer's election?

Mr. CLARK. We object on the ground that it is irrelevant, incompetent, and immaterial, and the witness can not be required to incriminate himself, and I now instruct the witness that he need not answer the question.

Mr. STEVENS. Will you answer the question?

A. Mr. Clark tells me not to.

Mr. STEVENS. He didn't tell you not to.

Mr. CLARK. I told you that you did not have to answer it unless you wish.

A. I refuse to answer.

By Mr. STEVENS.

Q. Mr. Moe, Mr. Clark told you, in substance, that you need not answer the question unless you wanted to; that is, that you could claim to refuse upon the ground that you did not care to incriminate yourself.—A. I don't care to answer the question.

Q. Are you at the present time in any way financially interested in the result of this election contest?—A. I am not; not a dollar's worth.

Q. Haven't you any money up—any bets up—on the result of Sulzer's and Wickersham's election of November, 1918?—A. I have not.

Q. Do you hold any stake money on it?

Mr. CLARK. We will instruct the witness that he does not have to answer; the question is immaterial, incompetent, and irrelevant.

Mr. STEVENS. Do you refuse to answer, Mr. Moe?

Mr. CLARK. You can answer or refuse.

A. Well, I hold \$30 in stake money.

Q. On this election?—A. On this election; but absolutely no interest in it whatsoever.

Q. You have testified in regard to a number of conversations with various voters; did you at any time make any memorandum in writing as to the substance of those conversations?—A. No.

Q. You say you did not make any?—A. No; I did not.

Q. Do you remember the conversations you have testified to?—A. Yes, sir; I do.

Q. Did you engage these parties into conversation for the purpose of finding out whom they voted for?—A. Well, I tell you; I have meddled with politics

a good deal in my lifetime and to find out how a man's politics are and how he votes is a second nature to me, and I always find out and it is a habit, you understand, which I have acquired by taking part in politics, you may say, for 40 years, and when I meet a man I naturally find out how his politics is. I don't know why I do it; it is simply my habit.

Q. And you followed that habit?—A. I don't follow it, but it seems that I do it, and I have no reason why. It is one of the bad habits a man has got—interfering and finding out other people's business, I suppose.

Q. Well, you remember clearly just what these parties said and just what they didn't say at each of these conversations to which you have testified?—A. I am not saying that; I am simply telling what I know; what they didn't say, naturally I could not tell you.

Q. Then you didn't tell all that took place in these conversations at these different places?—A. I told all that had anything to do with this case; all that I think is necessary to this case. I have answered the questions as near as I know how to be fair.

Q. Did you say that Mr. E. W. Brown voted at Fairbanks?—A. Yes, sir.

Q. How do you know?—A. Because I asked him in that conversation.

Q. He told you that he voted at Fairbanks?—A. Yes; I says, "You voted at Fairbanks, Mr. Brown," and he says, "Yes."

Q. How did you know that he had voted at Fairbanks when you told him that?—A. That he had voted in Fairbanks when I told him that? The reason for it was this, that there was so much talk about Sulzer voting outside of the precinct that he lived in, you remember—also in the papers—and I was finding out, you know; we thought here that anyone could vote anywhere in the district whether he lived here or not, and when that come up, we was curious to know, and I was curious to know—just to satisfy my own curiosity—to find some one who voted outside of their precinct; it is one of the habits, one of my habits I told you about.

Q. Did you know that Brown had voted in Fairbanks before you talked with him at that time?—A. Oh, yes.

Q. How did you know that?—A. By conversations, you understand; finding out who voted here.

Q. Did you examine the list prior to that?

Mr. CLARK. The voting lists.

A. I think I did; I think somebody had a list—I forget just who it was.

Q. When was it?—A. Let me see how I knew it. Yes; it was some one had a voting list and I was asking about it.

Q. Who had the voting list?—A. I don't remember who had it.

Q. When was it?—A. With Brown.

Q. Yes.—A. That was over at Brooks last fall.

Q. This last fall?—A. This last August, when I was over there. You see, Mr. Brown—I had him in court for having a still in his possession, and he pleaded guilty to that and was fined for having a still in his possession, and that is how I came to be over there, and after it was over a conversation come up, you know—Brown and I was talking, discussing the matter.

Q. What was that conversation that you had with Brown?

Mr. CLARK. It is absolutely immaterial. The question is as to whom Brown voted for, and Brown's conversation is absolutely immaterial.

Mr. STEVENS. Do you mean to say, Mr. Clark, that I can not call for the whole conversation that was had there, as a matter of law?

Mr. CLARK. On the subject of whom he voted for—I don't deny that; but on any other subject, no.

Mr. STEVENS. Just go ahead and state the conversation.

A. I have stated all that.

Q. I want you to state it again.—A. I simply found out that he voted "Wickersham."

Q. I am asking you what he said and what you said in regard to it.—A. I asked him—

Q. Asked him what?—A. "You voted for Wickersham, didn't you?" I says, and he said, "Yes," and the conversation was—I think it was—Paul Ringseth and a fellow of the name of Spool, and I think there were some more, and I forget what it was, how it come up, but the conversation come up over Wickersham and I asked him. Of course, I know that he had voted for Wickersham, and I asked him point-blank, that was all.

Q. You stated that on the 5th day of November, 1918, E. W. Brown lived at Brooks?—A. I didn't say he lived—well, his residence is at West Fork; he has quite a farm there; has been farming at West Fork for a number of years.

Q. Yes, but where did he live on the 5th day of November, 1918?—A. His residence is over there; he has always lived over there.

Q. At that time?—A. He was here during the election day—was over here.

Q. How long had he been here?—A. I don't know; he wasn't here but a very short time; I don't know how long; he may have been here a week or 10 days.

Q. Wasn't he here 30 days or more?—A. No.

Q. How do you know?—A. Well, the reason it come up was this, that during the time he had that still he said hadn't been in Fairbanks but once, for a short time; he was there for a few days during election; or something to that effect.

Q. When did he say that?—A. That was during the month of August, this last time I was talking to him.

Q. You don't know, of your own knowledge, where he did live?—A. I have been to his cabin; I searched his house this last time.

Q. I mean do you know, of your own knowledge, where he lived in November, 1918?—A. I know of my own knowledge that he has been residing there at Brooks and had a farm there for three or four years.

Q. When did you first see him there?—A. This last fall.

Q. You never saw him until this fall; just all you know about his living there is hearsay?—A. And as he says himself, and I was over there with a search warrant, you understand, for his house, and I says "How long have you been here, Brown?" and he says—I forget whether he said three or four years, "I have been here."

Q. That he had been there?—A. Yes, sir. I said "How long have you been over here," because he had a patch of ground that was cultivated, you know, and he had it nice—had a nice potato crop, and everything around there looked good; looked like the work of one man for four or five years, and I thought probably he had been there some time.

Q. Did he ever live in Fairbanks?—A. I don't remember. He has been off on his farm; but before when I knew him he lived out on Vault Creek; but he hasn't lived in Fairbanks, to my knowledge, for the last seven or eight years.

Q. He didn't tell you that he was not living in Fairbanks in November, 1918, did he?—A. That he was not living in Fairbanks?

Q. Yes, in Fairbanks.—A. He simply—all I know about it is that he told me when I was over there that he had been on that ranch—lived there on that farm—for either three or four years, or he may have said three years or four years.

Q. Did he say that he had been living on his farm?—A. "I have been living here," he said.

Q. Just a minute ago I asked you about it and you said he said he had been "here."—A. Yes, that meant on the farm; where the conversation took place.

Q. Did he say he had worked there or been living there three or four years?—A. He said "I have been here" or "I have been living here"—I can not tell whether he used that word, "living," or not: I think he did. I am not positive about it. That is all I know about it, from the conversation and from the work that was done around there, and that he had a farm and must have been three or four years to have it like that.

Q. Martin Claich, you say, voted in Fairbanks?—A. Yes.

Q. How do you know?—A. Because I saw him election day in Fairbanks.

Q. That is all you know about it; you didn't see him vote?—A. He told me.

Q. That he voted in Fairbanks?—A. Yes; the conversation was up on the corner, in Hoyt & Kelly's store; he said he had voted.

Q. He didn't say where, did he?—A. He was here and said he voted; from that I naturally took it that he voted here—and from looking over the list.

Q. That was on election day?—A. Yes, sir.

Q. On the 5th day of November, 1918?—A. Yes, sir.

Q. Wasn't he living in Fairbanks?—A. His home is in Brooks.

Q. How do you know?—A. Well, he was talking there and he called himself "Brooks people." "We Brooks people," he said, in the conversation.

Q. He owns a mine over there now?—A. Yes, a mining interest.

Q. He made a trip over there, a prospecting trip—the same as hundreds of others—along in 1914, didn't he?—A. For the last four years he has claimed his residence at Brooks.

Q. How do you know that?—A. He told me.

Q. He told you that for the last four years he had claimed his residence at Brooks?—A. "I am a"—how did he say it? "I am a Brooksite," he said.

Q. Did he tell you he had claimed his residence at Brooks for the last three or four years?—A. No, not them words you are putting.

Q. Well, what did he say about it?—A. In a general conversation he always said his home was Brooks—which it has been; he has lived there and been there in Brooks; that has been his home; and he has got a cabin over there and everything.

Q. How many times have you been over to Brooks?—A. Once.

Q. When?—A. This last August I was in Brooks for about thirty days.

Q. You were not over there in November, 1918?—A. I was not. I was in Fairbanks on election day.

Q. And all you know about Martin Claich is that he referred to himself as a "Brooksite"?—A. Yes, sir.

Q. That is all?—A. Yes.

Q. You have known him for a number of years?—A. Yes.

Q. You know, Mr. Moe, as a matter of fact, that he lived in Fairbanks for a long time, or about Fairbanks?—A. All there is to it is this. I have always known that he has been in Brooks and called himself belonging to Brooks for the last three or four or five years—three or four years anyway.

Q. Do you know of his owning any property in Fairbanks?—A. I do not.

Q. Hasn't he a cabin in Fairbanks?—A. I don't know; I don't believe it.

Q. Don't you know, as a matter of fact, that Fairbanks has been his headquarters always?—A. I don't know any such thing, because I know that his headquarters has been Brooks for four years.

Q. For four years?—A. Yes, sir; about that—approximately; I couldn't swear to the date; I know it has been for over three years that I am positive of; but my recollection is that it is five or six years.

Q. You have seen him here in town many times, here in Fairbanks?—A. Yes; he comes in in the fall of the year and stays a little time and goes back again; he has been in this summer more than any other time on account of not feeling well.

Q. In the year 1918 he was more in Fairbanks than in Brooks?—A. No.

Q. How do you know?—A. I was here up to August and I know Martin Claich pretty well, and he was very seldom here.

Q. Where do you say that Mr. Canning voted?—A. In Fairbanks.

Q. You don't know where he lived at that time?—A. He always lived on Dome Creek, but I don't know—the first I knew Canning he was on Dome Creek was in 1909, and he has been there since.

Q. Dome Creek is only a short distance from Fairbanks; it is in Fairbanks precinct?—A. It is in the Fairbanks mining district but not in the Fairbanks precinct.

Mr. CLARK. You mean the Fairbanks voting precinct.

A. (Continuing.) It is not in the Fairbanks voting precinct; it is in the Fairbanks recording precinct.

Q. Officially it is known as the Fairbanks precinct?

Mr. CLARK. You don't mean to contend, Mr. Stevens, that it is within the Fairbanks voting precinct?

Mr. STEVENS. No, the Fairbanks recording precinct, the Fairbanks mining and recording precinct.

Q. Thirteen or fourteen miles from Fairbanks?—A. About 18 miles, I should judge.

Q. A great many men that have been mining on the near-by creeks, including Dome Creek, as a matter of fact live in Fairbanks and have for a number of years?

Mr. CLARK. We object as as immaterial and not directed to this particular man; wholly incompetent, unless directed to this particular man under discussion, William Canning.

Q. Did William Canning say anything about where he lived at that time?—A. No.

Q. He didn't tell you that he lived on Dome?—A. No, sir.

Q. You know, as a matter of fact that he has been mining on Dome Creek for a number of years?—A. Yes; and he is there now.

Q. But you don't know, as a matter of fact, whether he lives in Fairbanks or not, do you?—A. Why, I know that he lives in Dome; I have known the man for a number of years and he has been living on Dome Creek; he hasn't been living in Fairbanks.



Q. Not that you know of?—A. I am positive.

Q. Did you know D. L. Green in November, 1918?—A. Yes; I knew him before that.

Q. Did you know him in November?—A. In November—he was here in November, going through here on account of the death of his brother who drowned on the *Sophia* and he was going outside, was called outside and he was on his way from Fairbanks to Juneau, when election day was, and he voted here.

Q. Did he tell you that he voted here?—A. No; I don't know that he did.

Q. How did you know?—A. From the voting list.

Q. He didn't tell you that he voted here?—A. No.

Q. What did he tell you in regard to Wickersham?—A. In a conversation, you understand, or rather an argument down there. I says "You are a strong 'Wickersham?'" "You bet," he says, "I am a strong 'Wickersham': always voted for him, and always will." Words to that effect. That was at his own road house down at Hotsprings, somewhere between the 20th and the 25th of October, previous to the election. On my way going up I stopped there for 5 or 6 days.

Q. And at the conversation you spoke of, relative to Mr. Green, you say Spencer was present?—A. Yes, sir.

Q. He was a deputy marshal?—A. Yes.

Q. And that conversation took place in Fairbanks?—A. No, sir; it took place at his road house at Hotsprings, at Mr. Green's road house.

Q. Before election?—A. Yes, before election.

Q. Then he never told you that he voted for Wickersham in this November election?—A. No, sir; he made the remark that he was "Wickersham" and always would be.

Q. Mr. Spencer is a Democrat?

Mr. CLARK. Objected to as immaterial.

Q. Do you know?—A. I know that Spencer was appointed deputy marshal before Erwin got in, and I naturally expected that he is a Republican, being appointed by a Republican marshal.

Q. Didn't he serve under Erwin?—A. Erwin reappointed him.

Q. Wasn't he a Sulzer man?—A. I don't know; I never heard him say.

Q. Don't you know, as a matter of fact, that Spencer was a strong supporter of Sulzer?

Mr. CLARK. We object as absolutely immaterial, as to whom Spencer may be in favor of or whom he may be against; it has no bearing on any of the issues in this cases; and we instruct the witness that he does not have to answer that question unless he wants to.

Q. Will you answer the question?—A. Well, I don't know; that is all.

Q. What did Spencer say, if anything, at this conversation?—A. He wasn't in the conversation; just listening; Mr. Green and I were doing the talking.

Q. And Spencer didn't say anything?—A. No, sir.

Q. What are Spencer's initials—his name?—A. I don't know.

Mr. CLARK. Chester T. Spencer is his name.

Q. Where is he stationed now?—A. He was, at the time when we are speaking about, down at the Hotsprings; he was stationed at Eagle and was on his way to Dawson with a prisoner that escaped from the jail—

Mr. CLARK. Eagle or Circle?

A. (continuing) Circle, I mean—and he captured the prisoner and came down to Gibbon and we traveled on the same stage from Gibbon.

Q. When was that?—A. I think we got here Sunday morning, the 26th of October.

Q. Of 1918?—A. 1918, and we left—we were about 12 days or 13 days on the road between Gibbon and here.

Q. Spencer was not living in Fairbanks at that time; you know that, don't you?

Mr. CLARK. We object to this as incompetent, irrelevant, immaterial, and needlessly incumbering the record. No testimony has been offered as regards Spencer, and this is not proper cross-examination. We instruct the witness that he does not have to answer the question.

A. I will not answer the question.

Q. Why not?—A. Because I think it has absolutely no bearing on this case. He isn't a party which is so far brought into this suit.

Q. Don't you know, as a matter of fact, that Spencer voted in Fairbanks and that Spencer was a supporter of Sulzer and that the reason you don't want

to answer this question is because you are afraid that your testimony might do Sulzer or Mr. Grigsby some injury if you answer this question; isn't that true?

Mr. CLARK. We object to the question and instruct the witness that he doesn't have to answer it, and if there is any contention of that kind it is part of the contestant's case in chief and can not be brought out on cross-examination, and I instruct the witness that he does not have to answer the question.

A. I will take the instruction of the attorney.

Q. Who was present with you at the conversation with Ernest Peterson?

Mr. CLARK. Which one? He has testified to two conversations with Peterson.

Q. Well, we will take the first conversation that you told about.—A. The first conversation? I have already answered that.

Mr. CLARK. He is entitled to have it repeated; you can go ahead and tell it again.

Q. Who was present?—A. Yes, sir. Well, it was the first conversation we had; was at the store of Mahan.

Q. Where?—A. At Brooks.

Q. When?—A. That was during the month of August; this last August.

Q. Well, what did Ernest Peterson say to you at that time—A. I put the question square to him—

Q. What question?—A. Asked him—I said, "You voted for Wickersham?" He says, "Yes." That was in a conversation we had, a dispute, and I can not remember all the words that led up to it, how it come up; but simply the thing was I put the question square to him that he voted for Wickersham, and he said he did.

Q. He said he voted for Wickersham?—A. Yes, sir.

Q. That was last August?—A. Yes, sir; this last August. And then, another time, I was up trying to find out certain things in regard to my case that I had over there, and I wanted to see Ernest and get his help in the case, a case that is immaterial to this, has no bearing on the election, and him and I were sitting there watching the water, and we had an hour and a half's conversation, and part of the conversation was what Wickersham done, etc.; just a friendly conversation; and he said that he voted for Wickersham, and told the reason why he voted for Wickersham; he thought Wickersham was an awful good man for the Territory; that was his reason.

Q. Where did you say he voted?—A. He voted here.

Q. How do you know?—A. I saw him here election day or the day after election, here in town. Him and I are good friends and we met and talked and I saw him off and on during that time of election here, and he is also on the register from Brooks, you understand. That shows where he voted.

Q. The register from Brooks?—A. Yes, sir.

Q. You saw by the register at Brooks that he voted here?—A. No; I didn't. I saw by the voting list of ones that voted, you understand, and the register, his name; that means his name was on the voting list, from Brooks—and his wife, both.

Q. How did you know? From the voting list, you mean?—A. Yes, sir.

Q. He and his wife were both here?—A. Yes, voters here.

Q. How long had he been here before the election?—A. He had just closed his work and he could not have been here—

Q. Tell us what you know of your own knowledge.—A. He hadn't been here long before election, because I came back on the 27th.

Q. Twenty-seventh of what?—A. Twenty-seventh of October. Election was the 5th of November, and I don't think that I met Ernest before three or four days after I came.

Q. He might have been here and you might not have met him?—A. Yes.

Q. Well, he lived here in Fairbanks then, didn't he?—A. Well, he was only on a visit; that is what he told me.

Q. He told you he was on a visit here?—A. "I am only here for a short time," he says, "and I am going back to the work."

Q. He was a mining operator at Brooks?—A. Yes, sir.

Q. But he lived in Fairbanks, didn't he; didn't he have a home in Fairbanks?—A. I don't think so.

Q. Hasn't he always had a home here?—A. If he has I didn't know it.

Q. Hasn't he got a home on lower First Avenue, in Fairbanks, Alaska; don't you know that?—A. Do you mean Gus or Ernest; if you mean—

Q. Ernest.—A. If he has I don't know it. Gus is his brother. I know he took his bride, came over from Brooks and took her here and went back again.

Q. To operate in Brooks?—A. Yes, sir.

Q. But his property and home have always been in Fairbanks?—A. If he has it is unknown to me that he lived here, that is, and made his home here; I never know it.

Q. But he might, for all you know.—A. Oh, well, he might.

Q. He didn't tell you that he lived in Brooks?—A. I didn't ask him so he didn't tell me; but he didn't tell me he didn't.

Q. Sylvester Howell has lived here in Fairbanks a number of times, hasn't he, since you have known him?—A. Well, he has been here on a visit, but I don't know as Sylvester Howell ever was a resident of Fairbanks; to my knowledge he has not. I always considered that his home was Hot Springs, because he has been mining in the Hot Springs district for years and he is still mining there.

Q. Well, he has a mine on Cleary, hasn't he?—A. That I don't know.

Q. And used to live on Cleary Creek?—A. I don't know; since I have known Sylvester Howell, and I have known him three or four years, probably five years, and ever since I have known him his home has always been at Hot Springs.

Q. His home or his operations?—A. His home.

Q. He has operated in this part of the country, too?—A. He hasn't operated in this part of the country since I have known him; I have only known him, of course, four or five years.

Q. Don't you know that within the last year he has been operating on Steel Creek?—A. I don't know within the last year; it is a new venture.

Q. Don't you know that he has been prospecting on Steel Creek?—A. I don't know a thing about it.

Q. For the last two or three, or possibly, four years, he has been interested in quartz up on Steel Creek; don't you know that?—A. No; I don't know it.

Q. And that he purchased some property on an option from "Wise Mike" Stepovich?—A. Well, yes; I know he was in that deal, and lost money in it.

Q. To the extent of some thirty thousand dollars or so?—A. I don't know how much; I don't know a thing about his business.

Q. That is near Fairbanks, isn't it—Steel Creek?—A. I should judge about 17 miles; I ain't sure.

Q. In the opposite direction from Hot Springs?—A. That I don't know.

Q. Don't you know that Sylvester Howell has considered Fairbanks his home and has operated in various places around?—A. I never heard him claim this as his home.

Q. Do you know, of your own knowledge, that it is not his home?—A. I always understood that his home was at Hot Springs.

Q. How did you understand that?—A. In general conversation, etc.

Q. But you had forgotten all about his operations on Steel Creek?—A. I don't think that "Wise Mike's" holdings are on Steel.

Q. You said you knew he was in the deal and that he sustained a loss? It is the head of Steel Creek, isn't it?—A. They don't call it the head of Steel Creek. I forget what they call it. I knew he was in it with him.

Mr. CLARK. The head of Gilmore Creek.

A. (continuing.) At the head of Gilmore Creek; that is what I think—head of Gilmore Creek.

Q. Right out here near Fairbanks?—A. Sixteen or 18 miles, I should judge; probably 20.

Q. You say he voted in Fairbanks?—A. Yes, sir.

Q. He did?—A. No; I mean at Nenana.

Q. May be Nenana was his home?—A. Well, I have just stated what I know and what I have heard and what I think, and I don't think Nenana any time was his home.

Mr. CLARK. You just told him that his home was at Hot Springs.

Q. Doesn't he own a lot of property in Nenana—have a show house or a theater there?—A. I don't think so.

Q. You don't think so; don't you know he does?—A. I don't think so; I don't know what he has at Fairbanks; but I know that he hasn't any holdings in that house now.

Q. Doesn't he own any property at Nenana?—A. I don't know; I wouldn't say that he does or that he doesn't.

Q. Did he ever live in Nenana?—A. I don't know; I don't think he did. I know that we always considered his home at Hot Springs.

Q. Whom do you mean by "we"?—A. That means the general community.

Q. And he told you that he voted for Wickersham?—A. No; but in a conversation up at the club one time, you know, him and Frank Lawson was having a mild discussion among themselves, and he, in that conversation, said that he was a Wickersham man and always voted for Wickersham.

Q. Well, did you have any conversation with anybody else in regard to how they voted?

Mr. CLARK. We object to it as immaterial, not proper cross-examination, and instruct the witness that he does not have to answer.

Mr. STEVENS. You can answer the question.

A. There is no use answering that question.

Q. You would not answer that question?—A. No.

Q. Am I to understand that the only conversations that you had with persons who voted at the Delegate election of November 5, 1918, were with these several persons that you have mentioned here to-night?

Mr. CLARK. We object to the question as not proper cross-examination, incompetent, irrelevant, and immaterial, not a correct statement of the witness's testimony, and we instruct the witness that he does not have to answer.

A. I will take the instruction of the attorney.

Q. Then the conversations that you have given to-night—I mean the testimony that you have given to-night—regarding the conversations that you had with these various voters was had by you for political purposes, was it not?—

A. At the time when them conversations were going on it was for no political purpose, it was simply for the purpose of knowing, for my own satisfaction, who were Republicans, or voted for Wickersham, and who was not. It is a habit which I have acquired by meddling with politics for years and I could not any more explain why, only the reason that it is simply an acquired habit, and I don't know, as long as it don't do anybody any harm, why I don't think that I can satisfy my own curiosity as to a voter. It has become such a habit I can't tear away from it.

Mr. CLARK. It is not a crime under the statutes of Alaska.

Q. Well, you had a political object in finding out how these men voted?—

A. No.

Q. Well, you had a personal curiosity to find out how these men voted?—

A. Yes, sir; that is all.

Q. Why did you have a curiosity to find out how these particular men voted, or was that curiosity extended to all your acquaintances?—A. More or less all.

Q. I will ask you to reconsider your refusal to answer a question. I should like to know, Mr. Moe, whether your political curiosity extended to other inquiries besides these particular persons.

Mr. CLARK. Objected to as immaterial, irrelevant, and incompetent; it has no bearing on any issue in this case; and we instruct the witness that he does not have to answer.

A. I will take the instruction.

Q. What I want to know, Mr. Moe, is to test your memory in regard to how various persons in this community voted. I think it is a fair question, and I want to ask you again whether or not your political curiosity, as you call it, extended to any other persons in this community than these particular men concerning whom you have testified?—A. The instruction from my attorney is not to answer the question, and I will take his instruction.

Q. You will take the chance of the court throwing out your testimony on the ground that your testimony is not fair in this matter?

Mr. CLARK. We are willing to take that chance.

A. I have been trying to be fair, done my utmost to be fair, to answer the questions honestly and squarely.

Q. As I understand, you refuse to answer the last question?—A. By advice of the attorney; I do.

Mr. STEVENS. That is all.

By Mr. CLARK:

Q. Just one question. You were subpoenaed, were you not, Mr. Moe?—A. I was; I have the subpoena in my pocket.

By Mr. STEVENS:

Q. When were you subpoenaed?—A. I think it was yesterday or to-day; I forget.

Q. You know, as a matter of fact, that you were not compelled to appear here unless you were subpoenaed five days prior to the examination?—A. I was subpoenaed and I came; that is all.

Q. You came here very willingly, didn't you?—A. That was the thing that I was asked by the subpoena to appear and I went.

Q. Whom did you talk to, prior to being subpoenaed, about this matter?

Mr. CLARK. I admit that I talked to him.

A. Mr. Clark was one.

Q. Did you suggest to Mr. Clark that it was better, or might look better, if he subpoenaed you?—A. No; of course not.

Mr. STEVENS. That is all.

Mr. CLARK. That is all.

#### CORRECTION.

The witness having read over the foregoing testimony, desires to make the following correction, to wit, on page 6, in answer to the question:

"Q. Now, Martin Claich—where did he reside on the 8th day of November, 1918?"

For the answer: "A. Here" substitute the answer "A. Brooks."

JOHN A. MOE

Subscribed and sworn to before me, at Fairbanks, Alaska, on this 21st day of October, A. D. 1919.

[SEAL.]

RICHARD H. GEOGHEGAN,

*Notary Public in and for the Territory of Alaska.*

My commission expires January 5, 1920.

UNITED STATES OF AMERICA,

*Territory of Alaska, ss:*

This is to certify that the foregoing deposition is a full, true, and correct transcript of the evidence given by John A. Moe, a witness on behalf of contestees in the above-entitled matter; that all questions were propounded to him by the attorneys for the respective parties as therein shown; were by him answered, by me taken down in shorthand, and by me thereafter transcribed; that said deposition was then read over by the witness, by him corrected, and said corrections noted by me; that the witness thereupon signed said deposition and swore to it before me as a notary public; and the foregoing comprises a full, true, and correct record of said proceedings.

In witness whereof, I have hereunto set my hand and affixed my notarial seal at Fairbanks, in the Territory of Alaska, on this 21st day of October, A. D. 1919.

[SEAL.]

RICHARD H. GEOGHEGAN,

*Notary Public in and for the Territory of Alaska.*

My commission expires January 5, 1920.

#### TESTIMONY FOR CONTESTANT IN REBUTTAL.

*To the above-named George B. Grigsby and his attorneys, J. A. Hellenthal and John R. Winn:*

You will please take notice that before Mrs. D. B. Chace, a notary public, at the office of the attorney general for the Territory of Alaska, in the Goldstein Building, at Juneau, Alaska, on Thursday, October 16, at 4.30 o'clock p. m. of that day, and thence continuing until completed, the contestant, James Wickersham will take the deposition of Willie Peters, residing at Juneau, Alaska.

This deposition will be taken at the time stated for the reason that the said Willie Peters will leave the jurisdiction or the Territory of Alaska on the steamer *Northwestern* on Friday morning, October 17, 1919.

Dated at Juneau, Alaska, this 15th day of October, 1919.

JOHN B. MARSHALL,

*Attorney for Contestant.*



Service of a copy of the foregoing is admitted this 15th day of October, 1919.

Objection is made on the ground that insufficient time is allowed between the time of the service of the notice and the taking of the deposition, and that the time for the taking of rebuttal testimony has not yet commenced.

J. A. HELLENTHAL,  
*Attorney for Contestee.*

Be it remembered that pursuant to the notice hereto annexed, and on the 16th day of October, 1919, at the hour of 4.30 p. m., at the office of the attorney general for the Territory of Alaska, in Juneau, Alaska, before me, D. B. Chace, a notary public in and for the Territory of Alaska, personally appeared Willie Peters, a witness produced for and on behalf of contestant in the above-entitled matter, John B. Marshall, Esq., attorney for contestant, and J. A. Helleenthal, attorney for contestee, and thereupon the following proceedings were had and testimony taken, to wit:

DEPOSITION OF WILLIE PETERS.

WILLIE PETERS, witness produced for and on behalf of contestant in rebuttal, was duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth.

Mr. HELLENTHAL. I will make a formal objection to the taking of this testimony at this time on the ground that insufficient time was given since the service of the notice, and that the time for taking rebuttal testimony has not yet commenced.

Mr. MARSHALL. I will state at this time that the time for taking rebuttal testimony has begun, and that whether it has or not this witness is leaving Juneau to-morrow morning on the steamer *Northwestern*, and we have got to take his testimony now in order to get it.

By Mr. MARSHALL:

Q. What is your name?—A. Willie Peters.

Q. Willie, where do you live?—A. I live here, down at Jimmie Hanson's house.

Q. Is that down in the village?—A. Yes, sir; down in the village, with Jimmie Hanson at his stepfather's house.

Q. You mean down in the Indian village here known as Auk Village?—A. Yes, sir.

Q. How old are you?—A. I was 24 years old last year.

Q. Do you know Seward Kunz?—A. Yes, sir.

Q. Did Seward Kunz have any talk with you at or about the time of the election on November 5, 1918, nearly a year ago?

Mr. HELLENTHAL. We object to this question on the ground it is irrelevant and immaterial; and on the further ground it can not be rebuttal, no foundation having been laid for the asking of the question.

A. Yes, sir; just at that time he came to me and said——

Q. (Interrupting.) Answer yes or no. Did you have any talk with him?—A. No; I never talked. Just he said that fellow is a good man here, that fellow Charlie.

Q. You never had any talk; he just said that that fellow Charlie was a good man to vote for?—A. Yes, sir; that is all he said.

Q. Do you know whether he meant by that Charles A. Sulzer?

Mr. HELLENTHAL. Objected to as immaterial and irrelevant.

A. Yes, sir.

Q. What else did he say to you?

Mr. HELLENTHAL. Object to the question as irrelevant and immaterial and not rebuttal, no foundation having been laid for the impeachment of the witness Kunz.

A. He said to-morrow afternoon to vote, to come around to-morrow afternoon.

Q. He said to come around to-morrow afternoon and vote?—A. Yes, sir.

Q. And did he tell you who to vote for?

Mr. HELLENTHAL. I object to that on the ground above stated.

A. Just at that time what he said to me at the house; he said that fellow was a good man.

Q. He just said that that fellow was a good man, meaning Charles A. Sulzer?—A. Yes, sir. The next time he never talked to me, and he never talked to me any more.

Q. Did you go to the polls the next day, on November 5, and vote?

Mr. HELLENTHAL. Objected to as irrelevant and immaterial and not rebuttal.

A. Yes, sir.

Q. Who did you vote for at that time?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I voted for Charles A. Sulzer.

Q. You voted for him for Delegate to Congress?—A. Yes, sir.

Q. Willie, had you ever voted before?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. When Seward came down here on the day before election, did he show you any paper?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. That paper he gave to me and I gave it to you.

Q. The paper that you gave to me, that is the one?—A. Yes, sir.

Q. Do you know what that paper was?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal, and the paper is the best evidence.

A. I can not read it and I don't know what that paper was.

Q. You could not read it, so you didn't know what it was?—A. Yes, sir.

Q. Did he say anything about if you would sign that paper you would have the right to vote?

Mr. HELLENTHAL. Same objection.

A. He said it was good for to vote with it.

Q. He said "It is good to vote with," and that is what he gave it to you for?—A. Yes, sir.

Mr. MARSHALL. That is all.

Mr. HELLENTHAL. That is all.

WILLIE PETER.

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 1, ss:*

I, D. B. Chace, a notary public in and for the Territory of Alaska, do hereby certify that the witness, Willie Peter, in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that said deposition was then taken down by me in shorthand at the time and place mentioned in the annexed notice, to wit, at the office of the attorney general for the Territory of Alaska, in Juneau, Alaska, on the 16th day of October, 1919, at the hour of 4.30 p. m. of said day; that said deposition was thereafter reduced by me to typewriting and when completed was carefully read over to said witness and by him subscribed in my presence.

Witness my hand and notarial seal this, the 17th day of October, 1919.

[SEAL.]

E. B. CHACE,

*Notary Public for the Territory of Alaska, residing at Juneau.*

My commission expires May 12, 1921.

*To Peter Konosh, Mrs. Tillie Martin, Charles Peters, Charles Gray, Billy Martin, George Martin, Wallis George, and J. L. Gray, Gilbert Jackson, John Willis, Daniel Joseph, Jimmy For, Edward Marshall, and John Harris, Greeting:*

Pursuant to notice heretofore given, you and each of you are hereby summoned to be and appear before Mrs. D. B. Chace, a notary public in and for the Territory of Alaska, at the office of the attorney general for the Territory of Alaska, room No. 403, Goldstein Building, at Juneau, Alaska, at the hour of 10 o'clock a. m., on Friday, October 24, 1919, then and there to testify as witnesses on behalf of Hon. James Wickersham, the contestant above named.

This subpoena is issued and your attendance required by virtue of the authority conferred upon me by the statutes of the United States governing contested elections.

Witness my hand and official seal at said city of Juneau, this 17th day of October, 1919.

[SEAL.]

D. B. CHACE,

*Notary Public for Alaska.*

My commission expires May 12, 1921.

*To the above-named George B. Grigsby, and his attorneys, J. A. Hellenenthal and John R. Winn:*

You will please take notice that before Mrs. D. B. Chace, a notary public, at the office of the attorney general for the Territory of Alaska, room No. 403 in the Goldsteinn Building, at Juneau, Alaska, on Friday, October 24, 1919, at 10 o'clock a. m. of that day and thence continuing until completed, the contestant, James Wickersham, will take the depositions of Peter Konosh, Mrs. Tillie Martin, Charles Peters, Charles Gray, Billy Martin, George Martin, Wallis George, J. L. Gray and John B. Marshall, residing at Juneau, Alaska, and Gilbert Jackson, John Willis, Daniel Joseph, Jimmy Fox, Edward Marshall, and John Harris, residing at Douglas, Alaska.

Dated at Juneau, Alaska, this 17th day of October, 1919.

JOHN B. MARSHALL.

*Attorney for Contestant.*

Service of a copy of foregoing is admitted this 17th day of October, 1919.

J. A. HELLENTHAL,

*Attorney for Contestee.*

#### STIPULATION.

It is hereby stipulated and agreed by and between the respective parties hereto, by and through their attorneys John B. Marshall and J. A. Hellenenthal, that the deposition of Charlie Peters, a witness produced in rebuttal for and on behalf of the contestant, may be taken before D. B. Chace, a notary public in and for the Territory of Alaska, at the office of the attorney general for the Territory of Alaska, on this 21st day of October, 1919, at the hour of 4 o'clock p. m., previous to the date given in the annexed notice, in order to permit the witness to leave town.

Dated at Juneau, Alaska, this 21st day of October, 1919.

JOHN B. MARSHALL.

*Of Counsel for Contestant.*

J. A. HELLENTHAL,

*Of Counsel for Contestee.*

Be it remembered that pursuant to the stipulation hereto annexed, and on the 21st day of October, 1919, at the hour of 4 o'clock p. m., at the office of the attorney general for the Territory of Alaska, before me, D. B. Chace, a notary public in and for the Territory of Alaska, personally appeared Charlie Peters, a witness for and on behalf of contestant in the above-entitled matter; also appeared John B. Marshall, of counsel for contestant, and J. A. Hellenenthal, of counsel for contestee, and the following proceedings were had and testimony taken:

#### DEPOSITION OF CHARLIE PETERS.

Whereupon CHARLIE PETERS, a witness produced for and on behalf of contestant in rebuttal, was duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

By Mr. MARSHALL:

Q. Charlie, how old are you?—A. About 22 years old; I forget, you see, just how old I am; about 22 years old.

Q. Where do you live?—A. In Juneau.

Q. In what is known as Auk Village down here?—A. Yes, sir.

Q. Were you here on the 5th of last November? On the 5th of last November, about a year ago, on election day, were you here then?—A. Yes, sir.

Q. Had you ever voted for anybody for an office before that time?—A. No, sir.

Q. Do you know Seward Kunz?—A. Yes, sir.

Q. On that day did Seward Kunz ask you to go up to the polls and vote?

Mr. HELLENTHAL. We object to that as being immaterial and not rebuttal.

A. Yes, sir.

Q. Who did he ask you to vote for?

Mr. HELLENTHAL. Object to that as immaterial and not rebuttal.

A. Well, he said to me that fellow Sulzer is a good fellow; that's all he said to me.

Q. He said that Mr. Sulzer was a good fellow?—A. He told me that Sulzer was a good fellow; that is all he told me.

Q. He told you that Sulzer was a good fellow?—A. Yes, sir; that is all he said.

Q. Did he ask you to vote for him?—A. No; I was thinking about that myself, and I thought he was a good fellow.

Q. And you thought he was a good fellow, and so you voted for him?

Mr. HELLENTHAL. I object to that as leading, immaterial, not rebuttal, and not the best evidence.

A. Yes, sir.

Q. Did Seward give you a paper for you to sign to show you had the right to vote?

Mr. HELLENTHAL. Object to that as immaterial, irrelevant, not rebuttal, and not the best evidence.

A. Yes, sir.

Q. Did you know what office Mr. Sulzer was running for?

Mr. HELLENTHAL. Object to that question as immaterial and not the best evidence.

A. No, sir.

Q. Do you know who else was running for that office with him?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No.

Mr. MARSHALL. That is all.

Mr. HELLENTHAL. That is all.

CHARLIE PETERS.

Be it remembered that pursuant to the notice hereto annexed, and on Friday, the 24th day of October, 1919, at the hour of 10 o'clock a. m., at the office of the attorney general for the Territory of Alaska, in Juneau, Alaska, before me, D. B. Chace, a notary public for the Territory of Alaska, personally appeared John Willis, Jimmie Fox, Mrs. Tillie Martin, Billie Martin, Daniel Joseph, Gilbert Jackson, Charles Gray, George Eddy Martin, and Wallis George, witnesses produced for and on behalf of contestant in rebuttal, and John B. Marshall, esq., attorney for contestant, and J. A. Hellenthal, esq., attorney for contestee, and thereupon the following proceedings were had and testimony taken, to wit:

It is stipulated and agreed at this time between John B. Marshall, for contestant, and J. A. Hellenthal, for contestee, that the testimony of the above-named witnesses need not be signed by said witnesses, both parties hereto waiving the signature of said witnesses to their depositions.

#### DEPOSITION OF JOHN WILLIS.

Whereupon JOHN WILLIS, a witness produced for and on behalf of contestant in rebuttal, was duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

Direct examination by Mr. MARSHALL:

Q. Mr. Willis, where do you live?—A. I live in Douglas.

Q. How long have you lived over there?—A. Oh, I lived there all the time; I was born here.

Q. You were born here in Juneau?—A. No; in Douglas. I live there; I go no place else; stay right there all the time.

Q. How old are you?—A. I am 36.

Q. You are a native Alaskan then?—A. Yes, sir.

Q. Before the 5th of November last year, when they held the election, had you ever voted?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. When had you voted?—A. On that day on the Douglas side.

Q. But did you ever vote before that time?—A. No, sir.

Q. You never voted before then?—A. No, sir.

Q. How did you come to vote that day?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Well, a man, his name is Frank, he is a half breed, he came around to my house; I thought he liked my house and I told him to come in and he came

in and he got some paper and he told me to sign my name and he had no chance to tell me what is that for, so I asked him, "What is that for?" He said, "I have no time; I have no time to explain to you, but there are a whole lot of Indians signed there, too, already, and you sign your name, too, quick," he said, "right away," so I put my name down on it and he didn't explain to me what is that for.

Q. Well, what did you do then?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I didn't do anything; I just put my name down on that paper and he went out.

Q. What was on that paper, do you know?—A. No; I don't know.

Q. What did he tell you it was?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal and not the best evidence.

A. He told me nothing about it; just said to me to just put my name down on it and then he left. He told me there were a whole lot of Indians signed their name and it is just as well to sign your name, too.

Q. Well, what did you do then?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I put my name down.

Q. Well, did you vote on November 5, 1918?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal and not the best evidence.

A. I don't know what that means.

Q. Did you go up to the polls where they were holding the election?—A. Yes, I went up there.

Q. What did you do when you got up there?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I didn't know that man's name that was selected.

Q. You didn't know the man's name they were selecting?—A. No, sir.

Q. Well, what did you do when you got there, though?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal and not the best evidence.

A. I signed my name on that long paper when I and Gilbert went in there.

Q. You signed your name on this long paper?—A. Yes, sir.

Q. And you and Gilbert Jackson went in there together?—A. Yes, sir.

Q. What did you do when you got in there?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Well, we didn't do nothing. We got that paper in there and we left it inside and went out again.

Q. Well, did you vote?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I don't know what that means.

Q. You don't know whether you voted or not?—A. No, sir.

Q. Well, do you think you voted?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal, and on the further ground this witness is not qualified to express an opinion.

Q. Can you answer that?—A. No, sir.

Q. Well, what did you go up there for?

Mr. HELLENTHAL. Objected to as immaterial.

A. Gilbert told me to go up there; I don't know what it was for; and he showed me what to do, and so I followed him. He got his first; he got that paper first and he told me, "Just copy this one off," and so I did; I copied it off.

Q. What do you mean when you say you copied it off; what did you do?

Mr. HELLENTHAL. Objected to as immaterial.

A. He got a long paper like that [indicating] that has got some marks on it, and he said, "The one we are going to choose we just put a cross on it," and so I did; I put a cross on that long paper.

Q. Now, he gave you a long paper that had some names on it?—A. Yes, sir.

Q. And some crosses in front of some of the names?—A. Yes; right at the end of the names, you see; so I did it.

Q. And you put crosses in the same place?—A. Yes, sir.

Q. Now, the paper you put crosses on was a paper one of the men in there gave you, wasn't it?—A. Yes.

Q. And you put crosses on that on the same place that they appeared on the ballot that Frank Desmond gave you?



Mr. HELLENTHAL. I object to each of these questions on the ground they are immaterial and not rebuttal.

A. Yes, sir.

Q. Now, I show you a paper and ask you if that is the kind of a paper you mean? [Hands paper to witness.]—A. Yes, sir.

Mr. HELLENTHAL. Same objection.

Q. And it had some crosses on it like this, and you put crosses on the paper on the same places?—A. I put crosses on in the same place, on the same lines.

Q. Now, do you know who you voted for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Sulzer.

Q. How do you know you voted for Sulzer?—A. Well, Gilbert told me.

Q. And the only way you know you voted for Sulzer is that Gilbert told you?

Mr. HELLENTHAL. I object to that as hearsay.

A. Yes, sir.

Q. Now, which name on there is Sulzer? [Hands paper to witness.]

Mr. HELLENTHAL. Objected to as immaterial. The document speaks for itself.

A. I don't know.

Mr. MARSHALL. Now, I want to offer in evidence this Democratic sample ballot and ask that it be marked "Contestant's Exhibit A."

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

Q. Mr. Willis, do you know what office Mr. Sulzer was running for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. Did anybody ask you to vote for Mr. Sulzer?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Gilbert told me.

Q. Gilbert told you to vote for Mr. Sulzer?—A. Yes, sir.

Q. Who is the Delegate to Congress from Alaska now?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal, and the record of the House is the best evidence.

A. I don't know.

Q. Do you know what the business of the Delegate to Congress is?—A. No, sir.

Q. Do you know anything about Government—how the Government is run?

Mr. HELLENTHAL. Objected to as irrelevant and immaterial.

A. I know a few of them.

Q. What do you know about it?—A. Well, I know about—that they have a school for us.

Q. They have a school for you over in Douglas?—A. Yes, sir.

Q. Well, what do you know about it?—A. So they could read it.

Q. Now, Mr. Willis, as I understand you, you went up to the polls and you had a paper like this? [Referring to contestant's Exhibit A.]—A. Yes, sir.

Q. And then you went in and the judges of election gave you a paper a good deal like this one, only it didn't have any marks in front of the names?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No; it didn't have any marks.

Q. And then you went in and marked the one they gave you just like this is marked?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes; Gilbert, he had his before me, and they got crosses like that; he put crosses on his the same way like that, and after he done that he passed it to me and told me to do the same way on mine; just put a cross like that.

Mr. MARSHALL. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. Gilbert Jackson is a native, too, isn't he?—A. Yes, sir.

Q. He is a full-blooded native?—A. He works up on this side.

Q. Yes; but he is a native? He is a native that lives in Juneau?—A. He lives in Douglas; he has got a house over on Douglas side, and he just has a job over there here; he works over here.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. MARSHALL:

Q. Can you write your name?—A. Yes; I can write my name.

Q. That is all you can write, isn't it. John?—A. Yes; that is all.

Mr. MARSHALL. That is all.

(Witness excused.)

DEPOSITION OF JIMMIE FOX.

JIMMIE FOX, a witness produced for and on behalf of the contestant, in rebuttal, being duly sworn by the notary, testified as follows:

By Mr. MARSHALL:

Q. Mr. Fox, where were you born?—A. In Alaska.

Q. Whereabouts in Alaska?—A. Oh, down at Sumdum.

Q. And you are a native Alaskan; you belong to the native race?—A. Yes, sir.

Q. How old are you?—A. About 42 years.

Q. Where do you live?—A. At Douglas.

Q. How long have you lived there?—A. Oh, about since I got to be a man.

Q. Ever since you have been a man?—A. Yes, sir.

Q. You have been living down on the beach there?—A. Yes, sir.

Q. Where the natives live?—A. Yes, sir; down in front of the hospital.

Q. You are engaged in fishing and that sort of thing?—A. Yes, sir.

Q. Before the last election, which was held last November, just about a year ago, did you ever vote?

Mr. HELLENTHAL. Object to that as immaterial and not rebuttal.

A. Yes, sir.

Q. Do you understand—I mean, did you ever vote for anybody at an election before this time a year ago?

Mr. HELLENTHAL. Objected to as immaterial.

A. No, sir.

Q. The last election, on November 5, 1918, did anybody talk to you about voting?

Mr. HELLENTHAL. Objected to as irrelevant, immaterial, and not rebuttal.

A. Yes, sir.

Q. Who was it?—A. Well, Frank Desmond was the first man who came to my house.

Q. And what did he say?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. He say go on and vote—I can't tell very well, I like to have interpreter.

(Whereupon, John Williams, a native, was duly sworn by the notary as an interpreter to truthfully and correctly interpret the questions propounded to this witness and his answers to said questions.)

Q. Ask him what Frank Desmond said to him about voting.

Mr. HELLENTHAL. Objected to as irrelevant, immaterial, and not rebuttal.

A. (By interpreter.) In the first place, Frank Desmond said to me to get the paper. He said, "This paper means there are two parties running against each other; that the people here in this part of the place are going to choose which one of these people that is fit for this office and you can have your name put down here for either one of these two men."

Q. Well, did Frank say anything to him about who he should vote for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. The first time Frank Desmond was alone by himself when he made this talk with me. From the start he mentioned Sulzer's name. He said, "If you decide to put your name for these two people, Sulzer will be the proper one for you to put your name down for," and some little time afterwards he and another party—a few days between times he and another party came back up to me again; then they talked to me the same way, mentioned Sulzer's name.

Q. And did Frank Desmond give you any paper?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Frank Desmond did not give me any paper the first time, and then Johnson came and Johnson gave me one of those papers.

Q. Was that George Johnson, the deputy United States marshal?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir; that is him.

Q. He lived on Douglas Island at that time?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. What kind of a paper was it he gave you?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. It was a kind of narrow paper, but was long, about that long [indicating].

Q. Was it a paper like this? [Counsel hands witness contestant's Exhibit A.]

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir; the paper was just like this.

Q. Did it have some marks on it in front of the names like that?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. Now, later on, did Frank Desmond give you a paper?—A. Yes, sir; a different paper from that, a wider sheet.

Q. What did he tell you that paper was?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal and incompetent.

A. The paper that Frank Desmond gave me he told me that this paper came from the high judge; those that are willing to vote they are the ones that are going to have these papers, so he handed me that one and told me it came from the high judge.

Q. And did he tell you that it gave you the right to vote?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal and incompetent.

A. Yes, sir.

Q. Now, when George Johnson gave you this paper, this contestant's Exhibit A, did he tell you who to vote for?

Mr. HELLENTHAL. Objected to as immaterial, irrelevant, incompetent, and not rebuttal.

A. Yes; he pointed out to me who I should vote for.

Q. And who did he tell you to vote for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Sulzer.

Q. Now, when you voted you went up to the polls where the judges were; and did they give you anything?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I think they handed me a paper something like that one when I came in there.

Q. Did it have any marks like these crosses in front of the names on it?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal and not the best evidence.

A. Yes. I didn't pay much attention to that particular one I saw in the judge's place; I don't know if there were any crosses on it or not. Some little time before this, in the month of June, I saw a paper something like that for Sulzer. He mailed it to me through the post office.

Q. Well, what did you do with the paper that the judges of election gave you when you went up to the polls where they voted?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I did just what Mr. Jackson had advised me to do; I done it just the way he told me to do with the paper.

Q. What was it he told you to do?

Mr. HELLENTHAL. Objected to as immaterial, not rebuttal, and incompetent.

A. He told me what the crosses on the front of the name was for; he told me to put a cross on the front of the name that he pointed out to me; so I done it.

Q. Well, whose name did he point out to you? [Hands Exhibit A to witness.]

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Mr. Sulzer.

Q. Mr. Fox, have you ever voted since that time last fall?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. Do you know who is Delegate to Congress now?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No; I do not.

Q. Do you know what the business of the Delegate to Congress is?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I don't like to tell you people anything that I don't know the nature of; I don't know the meaning of it; I don't know a thing about what the Delegate has to do with Congress.

Mr. MARSHALL. That is all.

(Witness excused.)

(Now, at this time the further taking testimony was continued until 2 o'clock p. m. of this day.)

(Now, at 2 o'clock p. m. of this 24th day of October, 1919, John B. Marshall, appearing for contestant, and J. A. Hellenthal, appearing for contestee, the following testimony was taken pursuant to adjournment:)

DEPOSITION OF MRS. TILLIE MARTIN.

Mrs. TILLIE MARTIN, a witness produced by contestant on rebuttal, was duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, and testified as follows:

By Mr. MARSHALL:

Q. Your name is Mrs. Tillie Martin?—A. Yes, sir.

Q. And you live down in the native village here, what is known as Auk Village, Mrs. Martin?—A. Yes, sir.

Q. How long have you lived there?—A. Four years.

Q. How old are you?—A. Twenty-five years old.

Q. You are a native resident of Alaska?—A. Yes, sir.

Q. Did you ever at any time before the election held last year on November 5 vote at any election?

Mr. HELLENTHAL. Objected to as immaterial, irrelevant, and not rebuttal.

A. No, sir.

Q. At that election, held about a year ago, did anybody talk to you about voting?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Seward Kunz came into my house for me to go to the election to vote for Mr. Sulzer.

Q. What did he say to you about voting for Mr. Sulzer?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. He said to go and vote; that is all. He came in for me to go and vote.

Q. He just came in for you to go and vote?—A. Yes, sir; he told me to go vote for Mr. Sulzer.

Q. Now, what way did he take you to the polls?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. From my house, you mean?

Q. Yes.—A. He took me down right in front of his house. "There is an automobile waiting for you," he said. "You come right down in front of my house; there is an automobile waiting for you there," he said.

Q. So you got in that and went to the polls?

Mr. HELLENTHAL. Objected to as irrelevant, immaterial, and not rebuttal.

A. Yes, sir.

Q. Did he give you any paper at that time?

Mr. HELLENTHAL. Objected to as immaterial.

A. No; he didn't give me any paper; he just told me to come to the election and vote.

Q. When you went in there, how did you know who you were voting for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. He told me to vote for Sulzer, and that is all I know about this man, and then I voted for Mr. Britt.

Q. How did you know who you were voting for, though, and what way did you vote?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

Q. Did he tell you anything about how to mark your ballot?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. What did he say about that?—A. He said, "Put a little mark, a cross, on your vote in front of the name of the man you are going to vote for."

Q. Did he give you any sample ballot like this? [Hands contestant's Exhibit A to witness.]

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No; he didn't give me anything like that. He gave one to my husband; that is all, I think.

Q. Did you and your husband go to the polls together?—A. No. My husband he went first, and then he came in for me. I wasn't going to vote until he came

In for me. He told my husband to go first. He said, "This paper will take you into election," he said to my husband.

Q. Well, you were able to read the names on the ticket, weren't you?—A. Yes, sir.

Q. And you could tell which one was Sulzer to put the cross in front of? [Witness looks at paper and points to name of "Sulzer."]

Q. Do you know what the Delegate to Congress—what his business is, what he does?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir. I was just told to go and vote; that is all I know about it. I went and voted, but I don't know anything about that.

Q. And you have never voted since?

Mr. HELLENTHAL. Objected to as immaterial.

A. No, sir.

Mr. MARSHALL. That is all.

Cross-examination by Mr. HELLENTHAL.

Q. You know the Delegate to Congress is a man who goes from here to Washington, don't you; you know that, don't you, that he goes to the Capitol?—A. Yes, sir; I heard about that.

Q. You don't know just what he does there except he represents the people of Alaska, isn't that true? You know that, don't you?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

By Mr. MARSHALL:

Q. What does he do when he goes to Washington?—A. I can not explain that; I don't know, because I haven't read about that, so please excuse me.

Mr. MARSHALL. That is all.

(Witness excused.)

#### DEPOSITION OF BILLIE MARTIN.

BILLIE MARTIN, a witness produced for and on behalf of contestant in rebuttal, being duly sworn by the notary, testified as follows:

By Mr. MARSHALL:

Q. Your name is Billie Martin?—A. Yes, sir.

Q. How long have you lived in Juneau?—A. I was born in Juneau.

Q. You live over here in Auk Village?—A. Yes, sir.

Q. Did you ever vote at any election prior to the election on November 5, about a year ago?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. I mean before that time, did you ever vote?—A. No, sir.

Q. That is the only time that you ever voted?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. How did you come to vote at that time?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Seward came to my house for me to go up to the city hall.

Q. Seward Kunz came to your house and asked you to go up to the city hall?—A. Yes, sir.

Q. Did he say anything to you about who you should vote for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. He told me to vote for Sulzer.

Q. Did he give you any paper of any kind?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I lost the paper.

Q. Was it on a big sheet of paper like this? [Hands witness contestant's Exhibit A.]

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. Do you know what was written on it?—A. No, sir.

Q. Did Seward tell you what it was for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. He just told me to go up to the city hall with that paper and give it to the fellow up there.

Q. And you went up there and voted?



Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. He told you how to mark the paper you voted with?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No; my brother did.

Q. Did they give you a paper like that? [Hands witness contestant's Exhibit A.]

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. And how did you mark it?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I just put cross marks on that.

Q. In front of whose names did you put the marks?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Just marked in two places, for Sulzer and Britt.

Q. Well, where are their names on there?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

Q. Can't you read them?—A. No, sir.

Q. You can not read them?—A. No, sir.

Q. He just showed you which ones to make a cross in front of?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. Do you know who is the Delegate from Alaska to Congress now?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. Do you know what the Delegate does—what his business is?

Mr. HELLENTHAL. Objected to as immaterial.

A. No, sir.

Mr. MARSHALL. That is all.

(Witness excused.)

Now at this time the further taking of testimony was continued until 8.30 p. m. of this day.

Now, at 8.30 p. m. of this 24th day of October, 1919, John B. Marshall appearing for contestant and J. A. Hellenthal appearing for contestee, the following testimony was taken pursuant to adjournment:

#### DEPOSITION OF DANIEL JOSEPH.

DANIEL JOSEPH, a witness produced for and on behalf of the contestant in rebuttal, being duly sworn by the notary to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Your name is Daniel Joseph?—A. Yes, sir.

Q. You live in Douglas, do you?—A. Yes, sir.

Q. In the native town there on the beach?—A. Yes, sir.

Q. How old are you, Mr. Joseph?—A. Forty-six.

Q. You are a native-born Alaskan?—A. Yes, sir.

Q. Did you ever at any time before the election held about a year ago—did you ever at any time before that vote at an election?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. Did anybody talk to you about voting at that election?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. Did no one come and talk to you about going to the polls to vote on that day?—A. No, sir.

Q. Didn't you tell me that you had some conversation with George Johnson, the deputy marshal, and with Frank Desmond?—A. Yes, sir.

Q. Well, what was that?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I was just cutting wood outside my cabin over there and the United States marshal came over to me.

Q. That was George Johnson?—A. Yes, sir; and he called to me; he said, "Mr. Joseph, you have got to go to that big hall at election to vote." I asked him, "I don't know anything about that," and afterwards he said, "Do you know anybody around here at Douglas?" and I said, "Yes; I know lots of

boys in Douglas," and I told him, "I never vote before," and he gave me a paper about that long [indicating], with all the delegates' names on it, because I asked him, "I don't know anything about that; I never vote before and I am not a citizen to do this kind of job," and he said, "But all the natives are going to have a vote this year," and he showed me; he said, "Here is Sulzer and here is Wickersham; anyone you like, anyone here, anyone you like you can vote for and you just come with me to find some other boys in Douglas." And he said, "Do you know anybody around here that is as good as white men, that could speak English?" and I said, "All right, I will show you," and then I went with him and we went into Jimmie Fox's cabin and I asked him, and afterwards asked Billy Brady and some of the boys, and Charley Williams, and he came to my cabin and I went to ask them.

Q. You asked who; who came to your cabin?—A. I asked Billy Brady and Charley Williams—

Q. You asked them what?—A. He asked me who to get to go to the election and vote and I told him, "You wait and I go see them; I am going down town first and I will see at the house," and I went down to the city hall in Douglas and I walked right in and the fellow he knew me; he was Jimmie Christoe's brother, David Christoe, and he said, "Are you going to have a vote?" and I said, "No; I want to find out about it. The marshal came into my house and he said he wanted all the natives to have a vote," and another fellow he told me, "Are you a citizen?" I said, "No." "You got your paper?" he said. I said "No; I got no citizenship paper." "Well, you can not vote, then," he said. I said, "All right; that is what I want to find out, because the marshal came after me to get all the native boys to come here to get a vote." I went back home and he was in there yet and two boys, and I told him about this; that it don't do any good for us to go down there because we got no citizenship papers to have a vote; that is what that man said here. "All right," he said, and then he went home and I went out again cutting wood, and afterwards Frank Desmond he took a sheet of paper and he gave it to every Indian, every native boy down town in Douglas.

Q. Do you know what that sheet of paper was; what was on it?—A. No, sir. "You can get to vote now," he said, and I took one and he gave them to all the native boys in Douglas, they all had them. And afterwards Eddy Marshall he came to my house and he said, "Are you ready to go?" I said, "Yes;" I can not say no, and kept on talking. "Well, let's go," he said, and I put my coat on and took that paper, too, and went to that house.

Q. Where they were holding the election?—A. Yes, sir. And I walked right in, and the first time, before we walked in, I told him, "Which one do you think you are going to have a vote for?" And Eddy Marshall said, "No, I don't know." And then he told me back, said, "Which one you think you will have a vote for, which one is best?" "Well," I told him, "I think I had rather have some vote for Sulzer and can you do that, too?" "I think so, yes," he said, and we walked right in, and the fellow he asked me, "Have you got your paper?" the first time I walked right in. "Yes," I said. Then I showed it to him. "All right, sign your name." That is all. And because we had that word, he sent the word to all the natives, I marked it down for Sulzer.

Q. Sulzer sent word to you he wanted you to vote for him?—A. No; he didn't say it, but he just talked about what is good for us, you know, and that is why. And afterwards then I marked it down for Sulzer and Eddie Marshall he marked it down for Sulzer also; that is all.

Q. Did they give you a paper like this? [Hands witness contestant's Exhibit A.]—A. Yes, sir.

Q. And it had marks in front of the names like this?—A. Yes, sir.

Q. Who gave it to you?—A. The marshal.

Mr. HELLENTHAL. We object to all these questions as being immaterial and not rebuttal.

Q. Did he ask you to mark yours the same way?

Mr. HELLENTHAL. Objected to as being immaterial and not rebuttal.

A. No; but he told me, "There is Sulzer, and there is Wickersham, and which one you like you can vote for."

Q. And you voted for Sulzer?—A. Yes, I voted for Sulzer.

Mr. HELLENTHAL. I object to the question as being immaterial, irrelevant, and not rebuttal.

Q. This big paper Frank Desmond gave you, what did Frank tell you that was?

Mr. HELLENTHAL. I object to as immaterial and not rebuttal.

A. He didn't say nothing, he just gave it to me, and the first thing when we came back home and Frank Desmond he came into my house I told him about them, about that, that I am not a citizen to have a vote; that is what they told me down there and that is why we came back. Then I get the paper. "There is your paper," he said.

Q. Did he tell you that paper gave you the right to vote?—A. That gave me the right to vote; that is what he said.

Q. Had you ever voted before?

Mr. HELLENTHAL. Objected to as immaterial, irrelevant, and not rebuttal.

A. No, sir.

Q. Do you know what the business of the Delegate to Congress is?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Mr. MARSHALL. I think that is all.

Cross-examination by Mr. HELLENTHAL:

Q. You got a letter and some literature from Mr. Sulzer before election?—

A. Yes, sir.

Q. And in that he stated what was good for the native people of Alaska?—

A. Yes, sir.

Q. And you thought Mr. Sulzer was doing something for the native people of Alaska?—A. Yes, sir.

Q. And you thought he was a good man?—A. No, no; he didn't say that.

Q. Well, you thought that; you thought that he was a good man?—A. Yes; that is what I thought.

Q. And that is the reason you voted for him?—A. That is the reason I voted for him.

Q. You thought he might do the native people in Alaska some good at Washington as Delegate; that he would be a good man for the natives?—A. Yes, sir.

Q. You thought that?—A. Yes, sir.

Q. You thought that he would get laws that would help the natives; is that what you thought?—A. Yes, sir.

Q. And that is why you voted for him?—A. Yes, sir.

Q. And that is what you and the other native boys talked over between yourselves; you talked about that with the other native boys?—A. No, no; just only with Eddy Marshall.

Q. You and Eddy Marshall talked that over?—A. Yes, sir; I talked to him.

Q. And you both thought Sulzer would be a good man for the natives?—A. That is what I asked Eddy Marshall the first thing when we got to the election, and I told him, I asked him first, "Which one are you going to have a vote for?" and he said, "I don't know." "I think Sulzer is good, I am going to have a vote for Sulzer," I told him, and he told me, "I think I will do that, too," he said.

Q. He thought Sulzer would be a good man in Washington for the natives, too?—A. Yes, sir.

Q. He thought he would help the natives by getting good laws for them?—A. Yes, sir.

Q. And that is what you thought?—A. Yes, sir.

Q. And so you and Eddy Marshall both voted for Sulzer?—A. Yes, sir.

Q. And you knew that Sulzer was going to Washington to make laws?—A. Yes, sir.

Q. You knew that, and you thought that he was looking after the interests of the Alaska native people? You understand me, don't you?—A. No, no; I could not say that.

Q. You thought he would do what was good for the Alaska native people; that he would help the Alaska natives?—A. No; I told you he sent word to me and word to all the natives. I was out fishing, and when I came back before election day I got a letter from the post office with all the delegates' pictures on it, and Mr. Sulzer's picture was on that, too, and I think there was about five sheets full of work, but I could not understand it; I could not read it, but I had my little daughter read it for me, but she could not tell me what it was; she could not understand it to talk in that language, but that is the reason I think Sulzer is good for anything; that is why I had a vote for him.

Q. Your little daughter explained it to you, is that what you mean?—A. No, no.

Q. Didn't she read it to you?—A. She read it, but could not understand it.

Q. She could not understand it?—A. She could not explain it to me.

Q. You could understand it all right?—A. No, no; I don't know what she said. She could read it, but she can not explain it to me; it was very hard to read it; those were hard words, you know.

Q. There were big words in it; the words in it were hard?—A. Yes, sir; she can not read it, but I make up my mind; I think Sulzer is good for anything, that is the reason I had a vote for him because he said about work, that is what I thought.

Q. That is what you thought when you and Eddy Marshall talked it over?—A. Yes, sir.

Q. And you both thought Sulzer would be a good man to vote for?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. MARSHALL:

Q. And you thought that because he sent you his picture?—A. Yes, sir.

Mr. MARSHALL. That is all.

Recross-examination by Mr. HELLENTHAL:

Q. You thought that because he sent you not only his picture but literature about what he was doing at Washington; isn't that it? He wrote you what he had done in Washington?—A. No; no.

Q. Didn't he send you some printed matter saying what he had done at Washington while he was Delegate?—A. Yes, sir.

Q. And that is what led you to vote for him, wasn't it?—A. Yes, sir.

Re-redirect examination by Mr. MARSHALL:

Q. You said you didn't understand what all this printed stuff was about, didn't you? You didn't know what this was all about—these printed things he sent you?—A. No; I didn't know anything about that; but that is what I thought when he sent this word to all the natives. Jimmie Fox had one, too, and when the marshal went to Jimmie Fox's cabin, Jimmie Fox showed it to him, and he said, "I got a letter from Sulzer;" and he showed it to the marshal; and I told him I got the same kind, too.

Q. And because he sent you a letter with his picture in it you thought he would be a pretty good man?—A. Yes, sir.

Q. So you voted for him?—A. Yes, sir.

Mr. MARSHALL. That is all.

(Witness excused.)

#### DEPOSITION OF GILBERT JACKSON.

GILBERT JACKSON, a witness produced for and on behalf of contestant in rebuttal, being duly sworn by the notary, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Now, Mr. Jackson, you live over in Douglas, don't you?—A. Yes, sir.

Q. And how long have you lived there?—A. Oh, I have been over there 24 years now.

Q. You are a native Alaskan, aren't you?—A. Yes, sir.

Q. Did you ever vote before the election held about a year ago?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No; I never voted before.

Q. How did you come to vote that time, Mr. Jackson?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I was working over here at the Alaska-Juneau power plant, and I was coming over from this side here on the company's boat to Douglas, and Frank Bach was standing at the corner of Mr. Martin's—Joe Martin's—store, and he handed me a ballot like that there, a ballot to vote.

Q. One of these? [Hands witness Contestant's Exhibit A.]—A. Yes, sir; one of those. So I took a hold of it and he passed them over to all the workingmen coming over on the company's boat. Then I went home on that boat, and I took this to my house; and I didn't know who to vote for; I never voted before; and I was cooking my meal—

Q. You were cooking your meal, and then what happened?—A. I was cooking my meal, and then just shortly after I was cooking, someone rapped on the door,

and I got up to see who it was, and Frank Desmond came in with those papers. "What is this paper for?" I asked him. "Well, this paper is printed over at the court; the district attorney sent them over to you," he said. So he gave me one of them and I read it, and it said on it I have a right to vote and I am a citizen—if you wants to be a citizen you have to leave all the old customs behind and some more, I forget. Then I keep it and he went out. Before he went out I asked Desmond what man I was going to vote for, and he said, "you can vote for Sulzer." And I asked him what time this election was going to come off, and he told me about 7 o'clock at the Natatorium Hall. "You be right there at 7 o'clock sharp," he said, so before I went to the Natatorium Hall I went to the store to find out. I said to Tom Hume, that old fellow who owns the store, I asked him, "Who shall I vote for?" and Tom Hume said to me, "Well, I guess you had better vote for Sulzer, he is a good man," he said. I didn't know; I never voted before, and I told him, "Will you please just explain this to me?" "Well, you go ahead and just vote for Sulzer," he said; so I went and took that paper that Frank gave me, and it was pretty near 7 o'clock, it was five minutes of 7, and I started for that house and I got there just exactly at 7 o'clock at the Natatorium Hall and I handed the man that paper the first thing and he told me to sign my name on it; so I signed my name on it and then they gave me the ballot and I went into a small room there.

Q. You went in there and marked your ballot?—A. Yes, sir; I marked my ballot.

Q. So Frank Desmond also told you to vote for Sulzer?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. Do you know what the business of a Delegate is at Washington?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Mr. MARSHALL. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. You say Frank Desmond brought you this paper from the district attorney's office, was that it?—A. Yes, sir.

Q. And you read that over?—A. Yes, sir.

Q. You read the paper over?—A. Yes, sir.

Q. And you noticed that it said that if you had given up all your old customs and were living the life of a civilized man, living a civilized life, you could vote?—A. Yes, sir.

Q. That is what it said, was it?—A. Yes, sir.

Q. And you had given up your old customs and was living a civilized life, so you went and voted, isn't that it?—A. Yes, sir.

Q. Now, you heard the boys talk about Charlie Sulzer and you knew who he was; you knew who Mr. Sulzer was, didn't you?—A. I saw his picture, but I never saw him.

Q. But you had heard people talk about him?—A. Yes, sir.

Q. And you thought he was a good man to vote for?—A. Yes, sir.

Q. And you knew that Mr. Sulzer was running for Delegate to Congress; you knew that, didn't you?—A. Yes, sir.

Q. And that the Delegate to Congress is the man that goes to Washington to help make the laws for Alaska?—A. Yes, sir.

Q. You knew that, didn't you?—A. Yes; I knew it.

Q. And you thought he was a man who would make good laws, would help make good laws?—A. Yes, sir.

Q. And that is why you went and voted for him?—A. Yes, sir.

Q. And the other people you talked to thought the same way about it?—A. They thought the same; yes, sir.

Q. They thought the same way?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. MARSHALL:

Q. And Frank Desmond told all these people to vote?—A. Yes, sir.

Q. And he passed all those papers around that were sent over to Douglas?—

A. Yes, sir.

Mr. MARSHALL. That is all.



By Mr. HELLENTHAL:

Q. Is Frank Desmond a native boy?—A. Yes, sir.

Q. An Alaskan native?—A. Yes, sir; he was born at Wrangell.

Mr. HELLENTHAL. That is all.

(Witness excused.)

DEPOSITION OF CHARLES GRAY.

CHARLES GRAY, a witness produced for and on behalf of contestant in rebuttal, being duly sworn by the notary, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Mr. Gray, you live here in Juneau, don't you?—A. Yes, sir.

Q. You are an Alaskan native?—A. Yes, sir.

Q. Did you ever vote until this election held about a year ago?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. You went up to the polls to vote on the morning of election day, didn't you?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. Who went with you?

Mr. HELLENTHAL. Objected to as immaterial.

A. The first time I came up from the mine—I was working here at the Alaska-Juno, inside of the mine—and as soon as we came home Seward Kunz was over there, and he says, "Well, you go up to the city hall," he said, "at 7 o'clock sharp"; and I said "What are we going to do there," and I was laughing. "Well, we are going to have a vote over there at election. You can vote for Sulzer," he said. "Well, tell me about it; what are we going to vote for Sulzer for?" "Well, he is the man that is good for us," he said. "Sulzer is good for our people," he said. Well, I never went up there; I stayed at home; I washed my face and waited on the table, and my wife was cooking my meal; and the second time—it was half-past 7—he came back again, and was after me to go up. I told him I didn't know anything about it because I have got no power to do that; I am not a citizen. "Well, you are just as good as a citizen if you are born in Alaska," he said. "Well, I will go up and try," I said, and I went up to the city hall. As soon as I got in there, well, a fellow was sitting at a table, and asked me, "Have you got your paper?" I said "No; I got no citizen paper." "Well, you got nothing to do with voting," he said, and I went out and I went home again. I didn't mean to go back again, but he came after me again and I go back; I go on back to the city hall and I meet—let me see; what is the name of that fellow? That fellow is the head man of the school—

Q. You mean Mr. Hawkesworth?—A. Mr. Hawkesworth; yes. I met him right outside of the door, and he said "Are you ready to vote?" "No," I said. "Why?" he said. I said, "Well, I was in here once, and I don't want to go in there the second time." I said, "I have got no citizenship papers." Well, a lady told me to go in, and he went in with me. He talked to that fellow at the table, and that fellow was against it again. I didn't say nothing. I just stand by the door and watching, and then I went out again. Seward Kunz went up to the courthouse and got that paper. I had one, but I left it in my house. Then he gave me one, and I went in again and I showed it to that fellow. Of course, I didn't know anything about it—how they want me to vote it. Well, that's all. I voted and I went out. I voted for Sulzer.

Mr. MARSHALL. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. You said you were not a citizen. By that you mean you had not taken out your citizenship papers at the courthouse?—A. Yes, sir.

Q. You had never gotten any of those papers?—A. No, sir.

Q. But you were born in Alaska?—A. Yes, sir.

Q. And you were working in the mine?—A. Yes, sir.

Q. And had adopted all the habits of civilized life, hadn't you?—A. Yes, sir.

Q. And you had abandoned all your tribal relations, your old customs? You had done away with all your old customs?—A. Yes, sir.

Q. And Seward Kunz told you if you did all that you were a citizen, didn't he?—A. Yes, sir.

Q. And that is why you went to vote?—A. I went to vote; yes, sir.

Q. And you thought Sulzer was a good man to send to Washington?—A. Well, I told you, I don't know if he was good, or the other fellow was good; but that fellow told me to vote for Sulzer, and I thought that is why I will do that; I don't know whether he was good or not.

Q. Who told you that?—A. Seward Kunz.

Q. You thought Seward knew Mr. Sulzer?—A. That is what I thought.

Q. And that Seward knew that he was a good man?—A. Yes, sir; I didn't know myself.

Q. And you took his word for it?—A. I didn't know him myself; I didn't know Sulzer myself. Of course, Seward told me to do that; that is why I voted for Sulzer.

Q. You did it because you thought Seward knew he was a good man?—A. Yes; I did it because I thought he knew he was a good man.

Q. And Seward Kunz is a good, honest man?—A. Yes, sir.

Q. And you took his word for it?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. MARSHALL:

Q. Did you read this paper that Seward brought down to you?—A. No; I never read it.

Q. And you didn't know what it was?—A. No, sir.

Q. You wouldn't have voted at all if Seward hadn't come after you?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. Did you know anything about Mr. Sulzer yourself?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Mr. MARSHALL. That is all.

(Witness excused.)

#### DEPOSITION OF GEORGE EDDY MARTIN.

GEORGE EDDY MARTIN, a witness produced for and on behalf of contestant in rebuttal, being duly sworn by the notary, testified as follows:

Direct examination by Mr. MARSHALL:

Q. George, you live down in Auk Village, don't you?—A. Yes, sir.

Q. How old are you?—A. I will be 29 on January 15.

Q. Did you ever vote before the election held last year, about this time a year ago?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. No, sir.

Q. How did you happen to come to vote?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Well, Seward Kunz made me come down there and vote.

Q. And did he tell you who to vote for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. And who did you vote for?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Sulzer.

Q. And he told you to do that?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Mr. MARSHALL. That is all.

Cross-examination by Mr. HELLENTHAL:

Q. You knew Mr. Sulzer, didn't you?—A. No, sir.

Q. You knew who he was?—A. I didn't know where he stays.

Q. Seward Kunz, you say, asked you to vote?—A. Yes, sir.

Q. You have given up all your old customs, haven't you, Eddy?—A. Yes, sir.

Q. And you are living like a white man?—A. Yes, sir.

Q. And you voted like a white man?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

(Witness excused.)

## DEPOSITION OF WALLIS GEORGE.

WALLIS GEORGE, a witness produced for and on behalf of contestant in rebuttal, being duly sworn by the notary, testified as follows:

Direct examination by Mr. MARSHALL:

Q. Mr. George, you have lived in Juneau quite a number of years, haven't you?—A. I have; yes, sir.

Q. And during that time you have on a good many occasions been an election officer, have you not?—A. Yes, sir.

Q. Both in the city and the Delegate elections?—A. Yes, sir.

Q. And you were such an officer on November 5, 1918?—A. I was.

Q. What were you doing at that time?—A. I was clerk, one of the clerks.

Q. One of the clerks of election?—A. Yes, sir.

Q. At Juneau precinct No. 1?—A. That is the one down at the fire hall, that is the one, isn't it?

Q. Yes.—A. Yes, sir.

Q. Do you recall on that day some of the native people coming in there to vote?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I do.

Q. What occurred when they first came in?

Mr. HELLENTHAL. Same objection.

A. Why, shortly after the polls were open there were some Indians came in and the judges refused to allow them to vote.

Q. And following that was there any further talk about the question of their voting by any one?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir. Shortly after that Mrs. Troy came in and told the judges that they were doing the wrong thing, that they had a right to vote, while the judges' reply was that they didn't see where they did have a right to vote. Inasmuch as they were not citizens and they would have to have some order from the court or from some one before they would let them vote. Shortly after that Judge Jennings came in and they took up the question with him and he told the judges that they had a right to vote in cases where they had severed their tribal relations. Shortly after that the judges received a paper. I didn't read it myself, but I heard them talking about it. It came from the District Attorney's office, I believe, instructing them to allow natives to vote where they had severed their tribal relations.

Q. This Mrs. Troy you speak of is the wife of John W. Troy, the editor of the Empire, and who is now also the collector of customs here?

Mr. HELLENTHAL. Objected to as immaterial.

A. Yes, sir.

Q. And Judge Jennings is the judge of the District Court for the Territory of Alaska, Division No. 1?

Mr. HELLENTHAL. Objected to as immaterial.

A. Yes, sir.

Q. Subsequently some of these came in with these papers and voted?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Yes, sir.

Q. Did you observe the manner of their voting at that time and what they did?

Mr. HELLENTHAL. Same objection.

A. Yes, sir. There were lots of them came in who didn't know how to vote. In fact, some of the judges went over and where they could not read or write they went in the booth with them and helped them vote, I presume.

Q. And it was apparent they had no experience in elections and had never voter before?

Mr. HELLENTHAL. Same objection.

A. Yes, sir.

Q. Had you ever in your previous experience as an election officer seen natives vote?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. Now, I don't recall, Mr. Marshall, whether I have or not.

Q. Did you see them vote generally in any considerable numbers?—  
A. No, sir.

Q. There may have been one or two voted who had established their citizenship?—A. Yes, sir; Seward Kunz voted every election, I remember him.

Mr. MARSHALL. I believe that is all.

Cross-examination by Mr. HELLENTHAL:

Q. Seward Kunz has been voting for a good many years, hasn't he?—A. Yes, sir; he votes at all the elections.

Q. And some of the other Indians vote, too, don't they?—A. I won't say that they don't. I think some Indians have been voting, but I never saw them in such big numbers as at the last election.

Q. You, as election judge, allowed only those to vote who had given their affidavits that they had severed their tribal relations and had adopted the habits of civilized life?—A. Yes, sir.

Q. That is the rule you followed?—A. Yes, sir.

Q. And the reason you allowed these Indians on that day to vote was because you were satisfied that they had severed their tribal relations and had adopted the habits of civilized life?—A. Well, I presume the judges were; of course I didn't have anything to say as to who should vote and who shouldn't.

Q. Oh, you were the clerk?—A. Yes, sir; I was just one of the clerks.

Q. And where the natives were not familiar with the system of voting, the judges did just what they did with white men who were not familiar with the system of voting, they explained it to them, isn't that right?—A. Yes, sir.

Q. And they did the same thing with the white men under the same circumstances?—A. Yes, sir; where a white man could not read or write he had that right, too.

Mr. HELLENTHAL. That is all.

Redirect examination by Mr. MARSHALL:

Q. As a matter of fact the only affidavits presented to them that these voters had severed their tribal relations and had adopted the habits of civilized life were their own?—A. Yes, sir; that was the only thing they had to go by.

Q. And those affidavits had been prepared and sent down to them by the United States attorney?

Mr. HELLENTHAL. Objected to as immaterial and not rebuttal.

A. I presume so, I do not know for sure.

Q. But you understood so at that time?—A. Yes, sir.

Mr. MARSHALL. That is all.

Recross-examination by Mr. HELLENTHAL:

Q. The judges may have known a good many of those natives, might they not, and had personal knowledge of it?—A. They may have known some of them and then again I heard the judges say that they had never seen a whole lot of them before. That is why they held up that vote in the morning when some of them came in.

Q. And they wanted outside evidence that they had severed their tribal relations?—A. Yes, sir.

Q. And they got that evidence and let them vote?—A. Yes, sir.

Mr. HELLENTHAL. That is all.

By Mr. MARSHALL:

Q. All the outside evidence they got was their own, wasn't it?—A. Yes, sir; their own affidavits; yes, sir.

Mr. MARSHALL. That is all.

(Witness excused.)

## CONTESTANT'S EXHIBIT A.

## DEMOCRATIC SAMPLE BALLOT, FIRST JUDICIAL DIVISION.

Mark "X" in the squares at the left of the name of the candidate for whom you desire to vote. If names of candidates for whom you desire to vote do not appear on the ballot, insert with pencil in blank spaces.

For Delegate to Congress—Vote for 1.		Designation of party by which nominated.
<input type="checkbox"/>	Connolly, Francis.....	Socialist.
X	Sulzer, Charles A.....	Democratic.
<input type="checkbox"/>	Wickersham, James.....	Republican.
For Territorial senator—Vote for 1.		
X	Britt, William.....	Democratic.
<input type="checkbox"/>	Johansen, Crist.....	Socialist.
<input type="checkbox"/>	Russell, Ed. C.....	
For Territorial representative—Vote for 4.		
X	Casey, W. W.....	Democratic.
X	Connors, James J.....	Democratic.
<input type="checkbox"/>	Davies, John H.....	Republican.
<input type="checkbox"/>	Hofstad, I. M.....	Socialist.
<input type="checkbox"/>	McCormack, Peter C.....	Republican.
<input type="checkbox"/>	Shepard, H. R.....	
X	Sowerby, Isaac.....	Democratic.
X	White, E. J.....	Democratic.
<input type="checkbox"/>	Winn, Grover C.....	
For road commissioner, first judicial division of the Territory of Alaska—Vote for 1.		
<input type="checkbox"/>	Arness, Olaf.....	Socialist.
X	Wiley, Perry J.....	Democratic.
<input type="checkbox"/>	Wilson, Jack.....	

NOTE.—The names on this sample ballot having an "X" in front are the Democratic candidates, all of whom stand for the government of Alaska by Alaskans. Take this sample ballot to the polling place and when you receive your official ballot mark an "X" on it where this sample is marked.

## UNITED STATES OF AMERICA.

*Territory of Alaska, Division No. 1, ss:*

I, D. B. Chace, a notary public in and for the Territory of Alaska, do hereby certify that the witness Charlie Peters in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that said deposition was then taken down by me in shorthand at the time and place mentioned in the annexed stipulation, to wit, at the office of the attorney general for the Territory of Alaska, in Juneau, Alaska, on the 21st day of October, 1919, at the hour of 4 o'clock p. m.; that said deposition was thereafter reduced by me to typewriting and when completed was carefully read over to said witness and by him subscribed in my presence.

That the witnesses John Willis, Jimmie Fox, Mrs. Tillie Martin, Billie Martin, Daniel Joseph, Gilbert Jackson, Charles Gray, George Eddy Martin, and Wallis George, were by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that said depositions were then taken down by me in shorthand at the time and place mentioned in the annexed notice, to wit, at the office of the attorney general for the Territory of Alaska, in Juneau, Alaska, between the hours of 10 o'clock a. m. and 10.30 p. m. of the 24th day of October, 1919; that said depositions were thereafter reduced by me to type-



writing; that the signing of said depositions by said witnesses was waived by counsel for contestant and contestee herein; that pages 1 to 46, inclusive, is a true and correct transcript of their testimony.

In witness whereof I have hereunto set my hand and affixed my notarial seal this the 27th day of October, 1919.

[SEAL.

D. B. CHACE,

*Notary Public for the Territory of Alaska.*

My commission expires May 12, 1921.

#### STIPULATION.

It is hereby stipulated between John B. Marshall, attorney for contestant, and J. A. Hellenthal, attorney for contestee, that the deposition of R. W. De Armond, of Sitka, Alaska, a witness on behalf of the contestant, may be taken before H. A. Bauer, a notary public for Alaska, residing at Sitka, Alaska, upon the annexed interrogatories, at any time after the date hereof and before the date on which the time for taking testimony on behalf of rebuttal shall have expired—that is to say, the testimony may be taken on any day allowed the contestant to take testimony in rebuttal.

It is further stipulated that the interrogatories shall be subject to the objections stated following each interrogatory, and the testimony elicited shall be elicited subject to such objections so stated. And further, that any other objections going to the relevancy, materiality, or competency may be made at the time that the deposition is heard in evidence, objections to the form of the questions only being waived.

Dated at Juneau, Alaska, October 21, 1919.

J. A. HELLENTHAL,

*Attorney for Contestee.*

JOHN B. MARSHALL,

*Attorney for Contestant.*

Interrogatories to be propounded to R. W. De Armond, a witness on behalf of contestant:

First. Please state your name and residence.

Second. How long have you resided at Sitka, Alaska, and what official position do you occupy?

Third. Please state whether or not as such United States Commissioner and ex officio probate judge you have heretofore at any time issued an order creating the town of Sitka, Alaska, a municipal incorporation or city of the second class, under and by virtue of chapter 47 of the session laws of the Territory of Alaska for the year 1913, and, if so, please attach hereto a certified copy of said order, and cause the same to be marked "Contestant's Exhibit No. 1."

Objection is made to interrogatory No. 3 on the ground—

1. That the testimony sought to be elicited is not rebuttal;
2. That it is immaterial and irrelevant; and
3. That any testimony relating to the order referred to is the best evidence unless the order itself is attached.

Fourth. Please state whether or not, as such United States commissioner, you did, at any time prior to the general election held on November 5, 1918, issue an order creating and defining the boundaries of the Sitka voting precinct, and ordering an election to be held therein, and giving notice of said election on said 5th day of November, 1918, and, if so, please attach hereto a certified copy of said order and notice, eliminating therefrom the description and boundaries of all voting precincts except the said Sitka voting precinct.

Objection is made to the fourth interrogatory on the ground—

1. That the testimony sought to be elicited is not rebuttal;
2. That it is immaterial and irrelevant;
3. That it is not the best evidence, the original order and notice referred to being the best evidence.

Fifth. Please state whether or not you issued an order appointing judges and clerks of election for the purpose and charged with the duty of conducting the election at the said Sitka voting precinct on the said 5th day of November, 1918, and, if so, please attach hereto a certified copy of said order and cause the same to be marked "Contestant's Exhibit No. 2."

Objection is made to the fifth interrogatory on the ground—

1. That the testimony sought to be elicited is not rebuttal;
2. That it is immaterial and irrelevant;

3. That the statement of the witness as to whether or not he issued the order referred to is not the best evidence, the order itself being the best evidence.

Sixth. Please state whether or not the judges and clerks of election so appointed by you, or the successor or successors of said judges and clerks, chosen in conformity with the law, did, in fact, conduct and supervise the general election held in the said Sitka voting precinct on November 5, 1918.

Objection is made to the sixth interrogatory on the ground that the testimony sought to be elicited is not rebuttal, that it is irrelevant and immaterial, that it is not the best evidence, and that the witness has no been shown to possess any personal knowledge concerning the matters referred to in the interrogatory in that the testimony sought to be obtained is hearsay.

Seventh. Please procure from the clerk of the city or town of Sitka, Alaska, a statement giving the names of the trustees of said town who were holding offices as such trustees on the said 5th day of November, 1918, and setting forth the date or dates when each of said trustees had last prior to said 5th day of November, 1918, been elected as such trustees, and have the said clerk of said Sitka, Alaska, certify that said statement is correct, under his official seal, and attach the same hereto and cause the same to be marked "Contestant's Exhibit No. 3."

Objection is made to the seventh interrogatory on the ground that the evidence sought to be produced is not rebuttal, is immaterial and irrelevant, and is not the best evidence.

#### DEPOSITION OF R. W. DE ARMOND.

R. W. DE ARMOND, a witness on behalf of the contestant, having been first duly sworn, on oath made answer to the foregoing interrogatories, as follows, to wit:

1. Answering the first interrogatory, the witness says: Robert W. De Armond, residence, Sitka, Alaska.

2. Answering the second interrogatory, the witness says: I have resided at Sitka, Alaska, 17 years. I occupy the office of United States commissioner, ex officio probate judge.

3. Answering the third interrogatory, the witness says: I have issued such an order creating the town of Sitka, Alaska, a municipal incorporation, or city of the second class, under and by virtue of chapter 47 of the Session Laws of the Territory of Alaska for the year 1913. A certified copy of said order and cause, marked "Contestant's Exhibit No. 1," is hereto attached.

4. Answering the fourth interrogatory, the witness says: I did as such United States commissioner, prior to the general election held on November 5, 1918, issue an order creating and defining the boundaries of the Sitka voting precinct, and ordered an election on the 5th day of November, 1918. A certified copy of said order and notice, eliminating therefrom the description and boundaries of all voting precincts except the said Sitka voting precinct is hereto attached, marked "Contestant's Exhibit No. 4."

5. Answering the fifth interrogatory, the witness says: I did issue an order appointing judges and clerks of election for the purpose and charged with the duty of conducting the election at the said Sitka voting precinct on the 5th day of November, 1918. A certified copy of said order and cause is annexed hereto and marked "Contestant's Exhibit No. 2."

6. Answering the sixth interrogatory, the witness says: I appointed such judges and clerks, chosen in conformity with the law, and they did conduct and supervise the general election held in the said Sitka voting precinct on November 5, 1918.

7. Answering the seventh interrogatory, the witness says: I have procured from the clerk of the town of Sitka a statement giving the names of the trustees on the said 5th day of November, 1918, setting forth the dates when each of said trustees had last prior to the 5th day of November, 1918, been elected as such trustees, and the said clerk of Sitka, Alaska, has certified that such statement is correct, under his official seal. Same is attached hereto, marked "Contestant's Exhibit No. 3."

R. W. DE ARMOND.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

The undersigned, H. A. Bauer, a notary public for the Territory of Alaska, does hereby certify that on the 25th day of October, 1919, the foregoing witness,

R. W. DeArmond, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth in his deposition in answer to the foregoing interrogatories, did testify as set forth in said foregoing answers; that said testimony was written down in the presence of said witness, and was thereafter read by him, and the said witness swore to the same and subscribed his name thereto.

In witness whereof I have hereunder set my hand and official seal this 25th day of October, 1919.

[SEAL.]

H. A. BAUER,  
Notary Public.

My commission expires April 10, 1922.

#### CONTESTANT'S EXHIBIT No. 1.

#### Final Order.

Before R. W. DeArmond, commissioner and ex officio probate judge for the recording district of Sitka (Division No. 1), Territory of Alaska.

In the matter of the incorporation as a city of the second class of the town of Sitka, Alaska.

Whereas an order having been heretofore made, to wit, on the 13th day of October, 1913, to determine whether the people of the community of Sitka, Alaska, desire to be incorporated as a city of the second class; and

George E. Howard, E. Otis Smith, and Charles P. Jennie, all bona fide residents and electors of such proposed incorporation, having been on said date appointed judges of said election, and the said judges having qualified as by law required;

And said election having been held at said Sitka, Alaska, on the 4th day of November, 1913, the place and date designated in said order therefore;

And said judges having filed a certificate showing the number of votes cast at said election in favor of incorporation as a city of the second class of said town of Sitka, Alaska (namely 116 votes), and the number of votes cast at aforesaid election against incorporation as a city of the second class of aforesaid town of Sitka, Alaska (namely 75 votes);

And it appearing that the people of said community of Sitka, Alaska, are in favor of incorporating said town as a city of the second class;

And the laws relating to incorporation as a city of the second class of communities in Alaska having been substantially complied with; it is: Therefore,

*Hereby adjudged and declared*, That said town of Sitka, Alaska, is and shall be deemed to be a municipal corporation of the second class, under the name of the town of Sitka, in the Territory of Alaska, and the same shall now and henceforth be deemed a municipal corporation of the second class, possessed of the powers and privileges by law prescribed, and such other powers as may hereafter be given by law, with the following described boundaries, to wit:

Beginning at corner No. 2 of the Presbyterian Mission site, on the easterly side thereof; thence running North 24° 54' E., to the northern corner of the Sitka National Monument; thence running north, 59° W., to Swan Lake, at the point where the said Swan Lake is entered by a small stream on the easterly side of the lake—near the Joe Cake's cabin; thence following the margin of the said Swan Lake east and west and along the western shore of the lake to the head of the lake; at the mouth of the stream or brook connecting said Swan Lake with the "Brady mill pond"; thence along the course of this stream or brook to the said "Brady mill pond" and along the southerly side of the mill pond to its natural outlet, or the creek bed connecting said mill pond with the ocean; thence north 60° W., about 1,250 yards to a point on the beach, bearing north, 60° E., from Channel Rocks Spindle in Sitka Channel; thence south, 60° W., to deep water line; thence following the meanderings of the deep water line, south and east, to a point bearing south, 60° W., from place of beginning; comprising in all approximately six hundred and thirty acres.

In witness whereof, I have hereunto set my hand and affixed my official seal at Sitka, Alaska, this 5th day of November, 1913.

[SEAL.]

R. W. DEARMOND,  
Commissioner and ex officio Probate Judge  
for the Recording District of Sitka, Territory of Alaska.

TERRITORY OF ALASKA,  
*Precinct of Sitka, ss:*

I, R. W. DeArmond, United States commissioner and ex officio probate judge, Sitka precinct, Division No. 1, Territory of Alaska, duly commissioned and sworn, hereby certify that the annexed is a true, full, and correct copy of the original order entered therein and all of said order.

In witness whereof I hereunto set my hand and official seal at Sitka, Alaska, this 25th day of October, 1919.

[SEAL.]

R. W. DEARMOND,  
*United States Commissioner and ex officio Probate Judge,  
Sitka Precinct, Division No. 1, Territory of Alaska.*

CONTESTANT'S EXHIBIT No. 2.

ORDER.

In the office of the United States Commissioner of the Sitka recording district, Division No. 1, District of Alaska.

In the matter of the appointment of judges of election for Sitka precinct No. 1 of Sitka recording district, for the general election of November 5, 1918.

Now, on this day, pursuant to an act of Congress approved May 7, 1906, entitled "An act providing for the election of a Delegate to the House of Representative from the Territory of Alaska," and an act of Congress approved August 24, 1912, entitled "An act to create a legislative assembly in the Territory of Alaska, to confer legislative powers thereon and for other purposes," and in conformity therewith,

It is hereby ordered that F. C. Sheridan, of Sitka, and E. W. Merrill, of Sitka, and W. E. Peterson, of Sitka, three qualified electors residing in said Sitka voting precinct, not more than two of whom are members of the same political party, be, and each of them hereby is, selected and appointed a judge of election in the above-named precinct for the general election to be held November 5, 1918.

Dated at Sitka, this 28th day of September, 1918.

R. W. DE ARMOND,  
*United States Commissioner.*

TERRITORY OF ALASKA,  
*Precinct of Sitka, ss:*

I, R. D. De Armond, United States Commissioner and ex officio recorder, Sitka Recording District No. 4, Territory of Alaska, duly commissioned and sworn, hereby certify that the above is a true, full and correct copy of the original order appointing the above-named men as judges of the election therein named.

Witness my hand and official seal at Sitka, Alaska, this 25th day of October, 1918.

[SEAL.]

R. W. DE ARMOND,  
*United States Commissioner and ex officio Recorder,  
Sitka Recording District No. 4, Territory of Alaska.*

CONTESTANT'S EXHIBIT No. 3.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

H. A. Bauer, hereby does certify: That on the 5th day of November, 1918, A. G. Shoup, Ferdinand Roll, and P. J. Kostrometinoff were trustees of the town of Sitka, Alaska. That A. G. Shoup, Ferdinand Roll, and P. J. Kostrometinoff, aforesaid were each of them elected on the 2d day of April, 1918.

That the foregoing certificate is correct.

[SEAL.]

H. A. BAUER,  
*Clerk, City of Sitka, Alaska.*

CONTESTANT'S EXHIBIT No. 4.

ORDER AND NOTICE OF ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 1918.

In the office of the United States commissioner at Sitka, Alaska, First Judicial Division.

Now, on this day, pursuant to an act of Congress approved May 7, 1906, entitled, "An act providing for the election of a delegate to the House of Repre-

sentatives from the Territory of Alaska," and an act of Congress approved August 24, 1912, entitled, "An act to create a legislative assembly in the Territory of Alaska, to confer legislative powers thereon, and for other purposes," and, in conformity therewith,

It is hereby ordered that for the purposes of the general election to be held on November 5, 1918, all the territory in the recording district known as Sitka recording district, outside of incorporated towns, is hereby divided into voting precincts, in each of which a polling place is hereby specified.

The said voting precincts are designated, described, and bounded as follows:

Sitka voting precinct of Precinct No. 1 of Sitka recording district:

All the west coast of Baranoff Island and the islands to the westward thereof south of Whitestone Narrows.

The polling place of said Sitka voting precinct is at Sitka, Alaska.

Which voting precincts shall constitute the voting precincts in and for the Sitka recording district (No. 4), division No. 1, Territory of Alaska.

Notice is hereby given that a general election will be held on Tuesday, November 5, 1918, for the purpose of electing the following officers, to wit:

A Delegate to the House of Representatives from the Territory of Alaska;

One member of the Senate of the Territory of Alaska;

Four members of the House of Representatives of the Territory of Alaska;

One road commissioner for road district No. 1.

The said election will be held in the voting precincts above named at the polling places therein specified; the said polling places will be open between the hours of 8 o'clock a. m. and 7 o'clock p. m. of said day.

Dated at Sitka, August 31, 1918.

R. W. DEARMOND,

*United States Commissioner for the Sitka Recording District,  
First Division, Territory of Alaska.*

UNITED STATES OF AMERICA,

*Territory of Alaska, Division No. 1, Precinct of Sitka, ss:*

I, R. W. DeArmond, United States Commissioner and ex officio recorder, Sitka precinct, division No. 1, Territory of Alaska, duly commissioned and sworn, hereby certify that the attached is a true and correct copy, with the exception of the description of the boundaries of Chicagof, Warm Springs, Suloia Bay, Tenakee, Hoonah, and Port Walter voting precincts of said Sitka recording district, which are omitted from this transcript of the original order and notice of election made by me August 31, 1918, for the general election to be held November 5, 1918, in said Territory and recording district.

In witness whereof I hereto set my hand and official seal at Sitka, Alaska, this 25th day of October, 1919.

[SEAL.]

R. W. DEARMOND,

*United States Commissioner and ex-officio Recorder,  
Sitka Recording District No. 4,  
First Division, Territory of Alaska.*

#### NOTICE OF TAKING DEPOSITIONS.

*To George B. Grigsby, contestee, and Hugh O'Neill, his agent:*

You and each of you will please take notice that the contestant, James Wickersham, will take the depositions of John Sundback, Thomas Gaffney, E. Grimm, George Maynard, M. W. Griffith, James P. Daly, A. Palet, A. Nicholson, and O. D. Cochran before James M. Streeten, a notary public for the Territory of Alaska, at the office of O. D. Cochran, on Front Street, Nome, Alaska, on the 25th day of October, 1919, at the hour of 1 o'clock p. m. of said day.

Dated this the 20th day of October, 1919.

O. D. COCHRAN,

*Attorney for Contestant.*

Be it remembered that pursuant to the notice attached hereto, there appeared before me, James A. Streeten, a notary public in and for the Territory of Alaska, residing at Nome, at the office of O. D. Cochran, on Front Street, in said Nome, on the 25th day of October, 1919, O. D. Cochran, counsel for contestant herein; Hugh O'Neill, counsel for contestee herein; and the within named witnesses on behalf of contestant, viz: Edgar Grimm, John Sundback,



Thomas Gaffney, O. D. Cochran, George S. Maynard, and James P. Daly; also L. S. Kerr, stenographer; that the taking of said depositions was continued by me from the time stated in the notice, viz, 1 o'clock p. m. of said day, until 7.30 p. m., by consent of counsel aforesaid; that the testimony of said witnesses was taken down in shorthand by said L. S. Kerr, under my direction, and that said witnesses were by me each duly sworn before their testimony was given; and

Thereupon, the following proceedings were had, to wit:

Mr. O'NEILL. If you have any more testimony along this line I do not care to participate in the taking of it; it is absolutely too rotten to merit any decent man's serious consideration for a minute. I want the record to show that.

Mr. COCHRAN. I want the record to show that the matter referred to was interjected into this record by counsel for Mr. Grigsby.

Mr. O'NEILL. If you proceed to take the depositions I don't care to participate further.

(Mr. O'Neill thereupon left the room.)

DEPOSITION OF JOHN A. SUNDBACK.

JOHN A. SUNDBACK, called on behalf of the contestant, being duly sworn by James M. Streeten, notary public, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. COCHRAN:

Q. Your name is John Sundback?—A. Yes, sir.

Q. You are a member of the Senate of the Territory of Alaska, from this division?—A. I am.

Q. How long have you lived in Nome?—A. Since 1899—the fall of 1899.

Q. Did you know one, Melvin Grigsby?—A. I did.

Q. When and where did you first know him?—A. Sioux Falls, South Dakota, then Dakota Territory.

Q. When?—A. In 1872.

Q. Have you known him since that time?—A. Yes, sir.

Q. Did you know him well?—A. Yes, sir.

Q. Did you know him when he came to Nome, as district attorney?—A. Yes, sir.

Q. You knew him during the time he was in Nome?—A. Yes, sir.

Q. What has been the politics of Melvin Grigsby since you knew him?—A. Republican.

Q. You know his son, George Grigsby?—A. Yes, sir.

Q. Knew him in Sioux Falls?—A. I did.

Q. Knew him in Nome?—A. Yes, sir.

Q. Do you know what his politics were prior to the time he was removed from the office of district attorney?—A. I did.

Q. What was his politics?—A. Republican.

Q. Do you know James Frawley?—A. I do.

Q. Was he your colleague in the last Territorial Senate?—A. Yes, sir.

Q. What has been his politics?—A. Democrat.

Q. Do you know upon what ticket he was elected?—A. I do.

Q. What ticket was it?—A. The Democratic ticket.

Q. Do you know James Wickersham?—A. I do.

Q. How long have you known him?—A. Since the time he arrived in Nome to occupy the position of district judge.

Q. That was in 1901, Captain?—A. I think so.

Q. What has been the politics of Judge Wickersham ever since you have known him?—A. I always understood that he was a Republican.

Q. What are your politics, Captain?—A. Republican.

Mr. COCHRAN. That is all.

(Witness excused.)

JOHN SUNDBACK.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

JAS. M. STREETEN,  
Notary Public, Alaska, at Nome.

My commission expires September 1, 1922.

## DEPOSITION OF O. D. COCHRAN.

O. D. COCHRAN, called on behalf of the contestant, being duly sworn by James M. Streeten, notary public, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

## Direct examination.

I have lived in the city of Nome, Territory of Alaska, since the summer of 1900. I have known Mr. George B. Grigsby intimately since he came to the Territory of Alaska, in 1902. Mr. Grigsby was politically a Republican until he was removed from the office of district attorney of this division of the Territory of Alaska, after which time he became a Democrat. Personally, I have been a Democrat ever since I have been in the Territory of Alaska.

I know James Frawley. I have known him well and intimately for the past 20 years. I know that he bears a very good reputation in this community, and that he has always, since I have known him, been a Democrat in politics.

I have known Judge Wickersham since the fall of 1901, and, being an attorney, I have practiced extensively before him. Judge Wickersham has always been a Republican; never has been known as a Democrat and never has identified himself as such, but on the contrary has always claimed to be a Republican.

On the hearings before the Committee on Elections No. 3 of the House of Representatives of the Sixty-sixth Congress, first session, in the contested election case of James Wickersham v. Charles Sulzer, under the date of July —, 1919, I read a statement made by Mr. George B. Grigsby, in which he said:

"That in 1910, he indicted a millionaire up at Nome, and that through the influence of this millionaire and other influence he was removed from the office of district attorney by President Taft."

Stating in answer to a question by Mr. Chindblom that the millionaire referred to was Mr. Lindeberg, of the Pioneer Mining Co., I desire to most emphatically challenge the truth of this statement. I was one of the attorneys in the action out of which the indictment against Mr. Lindeberg arose and am thoroughly familiar with every detail of the case. The case arose over the title to the Bear Cub mining claim near Nome. Mr. Lindeberg, in support of a motion for a restraining order, filed an affidavit on behalf of the Nome Exploration Co., which company he represented, in which Mr. Lindeberg stated that he had seen certain work performed upon said Bear Cub claim. Mr. Grigsby, who was one of the parties defendant in this action, claimed that Mr. Lindeberg had perjured himself in that affidavit in relation to such work and procured an indictment against Mr. Lindeberg, charging him with perjury. On the trial of the action 25 reputable people testified to the identical work stated in the affidavit of Mr. Lindeberg, and the jury in the case was out but a few minutes and returned a verdict establishing the truth of the statements contained in Mr. Lindeberg's affidavit.

The fact is that Mr. Grigsby was removed from the office of district attorney for the second division of the Territory of Alaska, because he endeavored to use his high office for personal gain; and should he repeat the statement made before such Committee on Elections I earnestly urge the attention of the members to a copy of the charges filed against Mr. Grigsby with the Department of Justice, which I ask to be marked and appended to this deposition. These charges are made up entirely from the sworn testimony of the witnesses found in the record of the case referred to.

O. D. COCHRAN.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

JAS. M. STREETEN,  
*Notary Public, Alaska, at Nome.*

My commission expires September 1, 1922.

## DEPOSITION OF THOMAS GAFFNEY.

THOMAS GAFFNEY, called on behalf of contestant, being duly sworn by James M. Streeten, notary public, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

## Direct examination by Mr. COCHRAN:

Q. Mr. Gaffney, what is your business?—A. Miner.

Q. You live at Nome?—A. Yes, sir.

Q. How long have you lived at Nome?—A. Since 1901.

Q. Were you a member of the First Territorial Legislature in Alaska?—A. Yes, sir.

Q. You were brought here as a witness to testify in this matter?—A. Yes, sir.

Q. Were you present in this room when Mr. O'Neill, representing the contestee in this case, withdrew?—A. Yes, sir.

Q. What other official position, if any, have you held in the Territory?—A. I was special employee for the suppression of the liquor traffic among the natives from August, 1914, until July, 1918.

Q. Are you acquainted at Unakaleet?—A. Yes, sir.

Q. How often have been at Unakaleet? Just whether you have been there any number of times?—A. Quite a number of times.

Q. Did your official business take you to Unakaleet frequently?—A. Yes, sir. Not to Unakaleet alone, but I frequently passed through there on official business and stopped.

Q. Frequently?—A. Frequently; yes, sir.

Q. Are you acquainted with most of the natives residing at Unakaleet?—A. I know quite a good many there.

Q. Are there public schools at Unakaleet?—A. Yes, sir; the Bureau of Education has a native school there.

Q. Have you visited these schools?—A. Yes, sir.

Q. At different times?—A. Different times.

Q. How long has a school been maintained at Unakaleet?—A. Well, I have been told that there has been—that there has been a school there for the last 25 or 30 years; but, of course, that I do not know myself.

Q. How long has a school been maintained there to your knowledge?—A. The first knowledge I ever had of a school being there was when I first passed through there going to the legislature in 1913.

Q. Have the natives at Unakaleet a local form of government?—A. Yes, sir.

Q. Have they a council?—A. A council; yes.

Q. Elective?—A. I don't know.

Q. An elective council?—A. I don't know; they are acting under the act of the legislature passed in 1915, I think.

Q. And is the town laid out in blocks and lots?—A. Yes, sir.

Q. What is the occupation of the natives living at Unakaleet?—A. Well, some are ship owners, boat owners, and more are reindeer owners, and some fishing, some shipbuilding.

Q. Have there been many vessels built at Unakaleet?—A. Yes, sir; there has been quite a number; two or three to my knowledge.

Q. Have they been built by the natives?—A. Yes; built from native lumber.

Q. What is the general character of the natives there as to education; are they well, or otherwise, educated?—A. Pretty fairly well educated.

Q. Have you observed whether or not they take any interest in matters politic?—A. Yes; I seen them around the stores reading papers and have talked to some of them on political matters.

Q. Are the natives there generally natives of the whole blood or mixed blood. at Unakaleet?—A. Well, there are some of mixed blood there.

Q. Are they mostly mixed blood?—A. Well, there are a great many of mixed blood.

Q. How do they live, Tom?—A. They live in houses the same as white people.

Q. How are their houses furnished, as to being well or poorly furnished?—A. Just about the average house that you will find of the average prospector and people living outside of Nome.

Q. You know the natives around Nome and elsewhere throughout the Seward Peninsula, in a general way?—A. Yes, sir.

Q. Now, how do they compare with the natives at Unakaleet as to intelligence?—A. Well, my impression—my knowledge of the natives in the second division, over which I had jurisdiction while holding office, I did not meet with any natives more progressive or better educated than there is at Unakaleet.

Q. What I am trying to get at is whether or not the Unakaleet natives are superior to other natives?—A. I believe they are.

Q. Well, you know whether they are or not?—A. Yes; they are.

Q. Do you know the natives at St. Michaels?—A. Yes, sir.

Q. Have you looked over the list of the voters at St. Michaels at the election between Mr. Wickersham and Mr. Sulzer, in 1918?—A. Yes, sir.

Q. Were there quite a number of votes—native voters?—A. There were quite a few.

Q. Yes. Now, as to education and intelligence, which are the superior natives?—A. The Unakaleet natives.

Q. They are superior to the St. Michaels natives?—A. Yes, sir.

Q. Do you recall a referendum vote in the Territory of Alaska on the question of the eight-hour day?—A. Yes, sir.

Q. Do you know how the voters of Unakaleet voted upon that subject?—A. They voted almost unanimously for the eight-hour day.

Q. Do you recall a referendum vote being taken in the Territory of Alaska on the question of prohibition?—A. Yes, sir.

Q. How did the natives at Unakaleet vote on that?—A. I think there was only one wet vote at Unakaleet.

Mr. COCHRAN. That is all.

THOMAS GAFFNEY.  
(Signature of witness.)

Subscribed and sworn to before me October 29, 1919.

JAS. M. STREETEN,  
Notary Public, Alaska, at Nome.

My commission expires September 1, 1922.

DEPOSITION OF JAMES P. DALY.

JAMES P. DALY, called and sworn on behalf of the contestant, by James M. Streeten, notary public, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. COCHRAN:

Q. Your name is James P. Daly?—A. James P. Daly.

Q. What official position do you occupy in the Territory of Alaska?—A. I am a member of the House of Representatives of the Territorial Legislature.

Q. How many terms have you been continuously a member of that body?—A. Three terms.

Q. How long have you lived in Nome, Mr. Daly?—A. Since 1900.

Q. Do you know Judge Wickersham?—A. I do.

Q. How long have you known him?—A. Since he acted as judge here, along about 1901.

Q. Since 1901?—A. Yes.

Q. Do you know what the Judge's politics have been?—A. I always considered him a Republican.

Q. What has been your politics, Mr. Daly?—A. Democrat.

Q. Do you know George Grigsby?—A. I do.

Q. Have you known him ever since he came to Nome in 1902?—A. Yes, sir.

Q. Knew him ever since?—A. Yes, sir.

Q. Intimately?—A. Yes.

Q. Do you know what his politics was up to the time of his removal from the office of district attorney?—A. He was a Republican; I don't think there was any dispute about it.

Q. Since that time what was he?—A. The first I heard he was connected with the Democratic Party was in the fall of 1917, when he attended a Democratic caucus, Democratic primary—Democratic caucus, I believe, is better.

Q. Was that after he was removed as district attorney?—A. Yes, sir.

Q. Do you know James Frawley?—A. Yes, sir.

Q. And have you known him for the past 20 years?—A. Eighteen or 20 years.

Q. Know what his politics have been?—A. Democratic. I may say in regard to Frawley that I heard that he supported Gilmore, and when he was asked as to his attitude he said that Gilmore was always his close, personal, and intimate friend; that is the only time I heard that he did not support the Democratic ticket, although he was never very active in politics until later years.

Q. Mr. Gilmore was running for Delegate to Congress on the Republican ticket?—A. He was.

Q. And was a Nome man?—A. He was.

Mr. COCHRAN. That is all.

JAMES P. DALY.

Subscribed and sworn to before me October 28, 1919.

JAS. M. STREETEN,  
Notary Public, Alaska, at Nome.

My commission expires 1st September, 1922.

## DEPOSITION OF GEORGE S. MAYNARD.

George S. Maynard, called as a witness on behalf of contestant, being duly sworn by James M. Streeten, notary public, to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Direct examination by Mr. COCHRAN:

- Q. Your name is George Maynard?—A. Yes, sir.  
 Q. You are the publisher and owner of the Nome Nugget?—A. Yes, sir.  
 Q. How long have you been one of the publishers of that newspaper?—A. Since 1910.  
 Q. Your business is the newspaper business?—A. Yes, sir.  
 Q. How long have you been in the newspaper business in Nome?—A. Since 1900.  
 Q. Are you well acquainted in Nome and on Seward Peninsula?—A. Yes, sir.  
 Q. Do you know George Grigsby?—A. Yes, sir.  
 Q. Knew him since he first came to Nome?—A. Yes, sir.  
 Q. In 1902?—A. Yes, sir.  
 Q. What were his politics up to the time he was removed from the office of district attorney? Do you know?—A. Yes, sir.  
 Q. What was it?—A. Republican.  
 Q. Do you know Judge Wickersham?—A. I do.  
 Q. How long have you known him?—A. Since 1901.  
 Q. Know him well?—A. Yes, sir.  
 Q. What has been Judge Wickersham's politics ever since you have known him?—A. Republican.  
 Q. Has he ever been a Democrat, or identified with the Democrats?—A. No.  
 Q. Do you know James Frawley?—A. I do.  
 Q. How long have you known him?—A. I believe, since 1900.  
 Q. State what has been his politics since you have known him?—A. Democrat.  
 Q. Do you know upon what ticket he was elected to the senate?—A. Yes; the Democratic ticket.

GEO. S. MAYNARD.  
*(Signature of Witness.)*

Subscribed and sworn to before me October 29, 1919.

[SEAL.]

JAMES M. STREETEN,  
*Notary Public, Alaska, Second Division, at Nome.*

My commission expires September 1, 1922.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

L. S. Kerr, being first duly sworn, deposes and says: That he is a stenographer and court reporter of 20 years' experience; that on the 25th day of October, 1919, at the hour of 7.30 p. m., he was present in the offices of O. D. Cochran, in Nome, Alaska, and at such time and place took down in shorthand the depositions of Edgar Grimm, John Sundback, Thomas Gaffney, O. D. Cochran, James P. Daly, and George S. Maynard, witnesses called on behalf of the contestant in the above-entitled proceeding; that after taking down such testimony and proceedings affiant thereafter extended the same on the typewriter, and that the testimony hereunto attached is a true and correct transcription of the shorthand notes taken by affiant at said time and place, to the best of his ability.

L. S. KERR.

Subscribed and sworn to before me November 1, 1919.

[SEAL.]

JAMES M. STREETEN,  
*Notary Public, Alaska, at Nome.*

My commission expires September 1, 1922.

UNITED STATES OF AMERICA,  
*Territory of Alaska, ss:*

I, James M. Streeten, a notary public in and for the Territory of Alaska, do hereby certify:

That on the 25th day of October, 1919, at the hour of 7.30 p. m., there appeared before me at the time and place stated in the hereunto attached notice, at the offices of O. D. Cochran, in said Nome, Alaska, O. D. Cochran, counsel for the contestant herein, Hugh O'Neill, counsel for the contestee, Edgar



Grimm, Thomas Gaffney, John Sundback, James P. Daly, George S. Maynard, and said O. D. Cochran, witnesses on behalf of said contestee; that before proceeding to the taking of the testimony of said witnesses they were by me each duly sworn to tell the truth, the whole truth, and nothing but the truth in relation to the matters in controversy herein; that the testimony of said witnesses was taken down in shorthand by L. S. Kerr, a competent court reporter, at said time and place, and thereafter was by him extended on the typewriter under my direction and control; that after said testimony was so extended said witnesses read the same over, corrected and signed the same in my presence, and again swore to the truth of the matters therein contained.

That during the taking of the deposition of the witness, O. D. Cochran, copies of certain charges filed against one George B. Grigsby were introduced in evidence and are attached hereto and marked "Exhibit A" to the deposition of said O. D. Cochran.

That the time originally set for the taking of said deposition was 1 o'clock p. m., of said day, but that the taking of the same was continued until 7.30 p. m. by the undersigned notary with consent of counsel.

That the herein-attached typewritten pages contain the testimony and proceedings had and taken at said time and place.

In testimony whereof I have hereunto set my hand and official seal of Nome, Alaska, this 3d day of November, 1919.

[SEAL.]

JAS. M. STREETEN,  
Notary Public, Alaska, at Nome.

My commission expires September 1, 1922.

*To Charles A. Sulzer, contestee, George B. Grigsby, contestee, and to John A. Clark, his agent and attorney:*

You are hereby notified that the depositions of Martin Claich, Ernest Peterson, and Sylvester Howell will be taken before Henry T. Ray, a notary public in and for Alaska, at his office on Second Avenue in the town of Fairbanks, Alaska, next the Imperial cigar store, on the 25th day of October, 1919, at the hour of 2 o'clock p. m. of said day, then and there to be examined and to testify on oath in rebuttal respecting the said contested election and the issues in said contest, to be read in evidence in the above-entitled proceeding on behalf of said James Wickersham, contestant, and that at the taking of said depositions you are requested to have your attorney or agent present to cross-examine said witnesses if he so desires.

Dated at Fairbanks, Alaska, this 22d day of October, 1919.

JAMES WICKERSHAM,  
Contestant.

By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 22d day of October, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestees.

In pursuance to notice hereto attached, the depositions of Martin Claich, Ernest Peterson, and Sylvester Howell were taken in the above-entitled case before Henry T. Ray, a notary public in and for Alaska, at his office on Second Avenue, in the town of Fairbanks, Alaska, at the hour of 2 o'clock p. m., on the 25th day of October, 1919, said witnesses testifying in rebuttal on behalf of James Wickersham, contestant, there being present Morton E. Stevens, attorney for James Wickersham, contestant, and John A. Clark, attorney for George B. Grigsby, contestee.

#### DEPOSITION OF MARTIN CLAICH.

MARTIN CLAICH, being first duly sworn, on oath testified as follows:

By Mr. STEVENS, attorney for contestant:

Q. State your name.—A. Martin Claich.

Q. Were you over the age of 21 years on the 5th of November, 1918?—

A. I was.

Q. Were you a citizen of the United States at that time?—A. I was.

Q. Were you a resident and inhabitant of Alaska at that time?—A. I was.

Q. For about how long had you been a resident of Alaska continuously prior to that time?—A. Little over 12 years at that time; 12 years and a half.

Q. Where was your home November 5, 1918?

Mr. CLARK. We object to the question, irrelevant, incompetent, and immaterial, as the question involved is his place of residence at that time.

A. Fairbanks, Alaska.

Q. How long had Fairbanks, Alaska, been your home and residence prior to November 5, 1918?

Mr. CLARK. I object to the question for the reason that it calls for conclusion of the witness, and embraces certain statements that the witness has not testified concerning.

A. Well, about four years—that is, I claimed it as my home—Fairbanks; I have been here steady.

Q. Was there any other place during that time in Alaska, that you claimed to be your home?—A. No, sir; there was not.

Mr. STEVENS. That is all; you may take the witness.

Cross-examination by Mr. CLARK:

Q. When did you first go over to Livingood Creek?—A. In October, 1914.

Q. Did you locate any property over there?—A. I did.

Q. How many mining claims did you locate?—A. Well, I have interests in about eight, I think.

Q. Have you been mining yourself?—A. I have, just little while.

Q. Were you mining in 1918?—A. I was.

Q. On Livingood Creek?—A. Yes.

Q. What had you been doing between the time you first went to Livingood Creek in 1914 and the 5th of November, 1918?—A. Well, I haven't been on Livingood steady.

Q. Where were you when you were not on Livingood Creek?—A. I was mining on Pedro Creek in Fairbanks district in 1915.

Q. When did you finish your mining on Pedro Creek?—A. About the middle of August, 1915.

Q. Did you go back to the Tolovana when you finished mining on Pedro Creek?—A. I did.

Q. What did you do when you went back to Livingood Creek?—A. I went stampede on Mike Hess—what we call "Promised Land."

Q. Mike Hess Creek is in the Tolovana mining district?—A. Yes, it is—the upper part is.

Q. You were on the upper end of Mike Hess Creek, were you not?—A. Yes; I was on Middle Fork or East Fork.

Q. When did you commence mining on Livingood Creek?—A. In April, 1918.

Q. When did you finish mining on Livingood Creek?—A. July 20, 1918.

Q. What did you do when you finished mining?—A. I didn't do anything.

Q. Did you at that time own a cabin on Livingood Creek?—A. No, sir; I never owned a cabin on Livingood Creek.

Q. Where did you live on Livingood Creek?—A. I lived in a tent on the claim.

Q. Have you lived there ever since you first went over to Livingood Creek?—A. No.

Q. Where did you live?—A. When I was on the claim I lived in a tent.

Q. Where did you live between July and November, 1918?—A. I lived on the claim until about the 25th of September.

Q. Where did you live after that?—A. At Brooks City.

Q. Did you live in a cabin there?—A. I think I stayed with a friend of mine there for a few days.

Q. Then where did you go?—A. Came to Fairbanks.

Q. When did you come to Fairbanks?—A. First part of October.

Q. When did you go back to the Tolovana district?—A. Well, I left here a few days after the city election in April, 1919.

Q. Where did you stay while you were in Fairbanks?—A. I slept in Pioneer Hotel.

Q. Your blankets are in the Tolovana, are they not?—A. I have portion of my bedding over there and portion is here in Fairbanks.

Q. When you came to Fairbanks you secured a room at the hotel, did you not?—A. I did.

Q. When did you come over to Fairbanks this time?—A. I think I came here on the 23d of September this last time; I have been here four times this last summer.

Q. When you voted at the general election November 5, 1918, in Fairbanks, were you asked by the election officials as to your place of residence?—A. I was not.

Q. Did you tell the election officials that you resided at Brooks?—A. No one asked me a question until after I voted, when one of the judges asked me where I come from, and I said Brooks.

Q. Didn't he ask you where you resided?—A. No, sir; he did not.

Q. Did you sign your name to the voting list?—A. I don't remember that I did.

Q. Didn't you sign your name and right after it "Brooks?"—A. If I did, I don't remember.

Q. Between the time you first went to the Tolovana in 1914 and the present time, how often have you been in Fairbanks?—A. Well, I spent every winter in Fairbanks with exception of one.

Q. When mining closes down in the Tolovana district most of the miners come to Fairbanks for the winter?—A. Well, I can't say that most of them do—some of them do.

Q. Isn't it a fact that since the year 1914 you have spent practically all of the mining seasons of each year on Livingood Creek, or other creeks close to Livingood Creek?—A. What do you claim mining seasons?

Q. Doesn't the mining season close so far as sluicing is concerned at the time of the freeze up, in about the month of October, each year?—A. Yes.

Q. Isn't it true that you have spent practically all of your time during the sluicing seasons, from 1914 to the present time, on Livingood Creek, or other creeks in that vicinity?—A. Well, sir, I haven't spent half the sluicing time on Livingood Creek, or in that vicinity.

Q. Is any of your ground being worked on a lay?—A. It has been, all of it has been worked by laymen.

Q. You are a miner, are you not?—A. Yes, sir.

Q. You have worked other claims in Fairbanks district, have you not?—A. I have, to some extent.

Q. In 1918, you understood the law to be that a person could vote in any precinct in Alaska where he chanced to be on election day, did you not?

Mr. STEVENS. We object to that as calling for a legal opinion or legal conclusion, not proper rebuttal, and incompetent.

A. That was the general opinion.

Q. Whenever you have visited Fairbanks you have stopped at a hotel, have you not, Mr. Claich? That is, since 1914?—A. Yes, sir.

Mr. CLARK. That's all.

Redirect examination, by Mr. STEVENS:

Q. State whether or not you had any clothing and personal effects in Fairbanks when you arrived here the first part of October, 1918?—A. I did.

Q. Where were they?—A. In the town of Fairbanks.

Q. State generally what they consisted of?—A. My new clothes and bedding, and some jewelry.

Q. How long had they been in Fairbanks prior to that time?—A. Four years.

Q. Why did you leave them in Fairbanks?—A. Because I make this my home when I am not doing work outside the town. I make this my headquarters.

Q. Where do you consider your home to be when you are out on the creeks?

Mr. CLARK. I object, on the grounds that it is calling for a legal conclusion.

A. I consider Fairbanks to be my home all the time.

Mr. STEVENS. That's all.

Recross-examination, by Mr. CLARK:

Q. Whereabouts in Fairbanks did you leave your clothing and other effects in 1918?—A. With Mr. Burch.

Q. You left them in his charge?—A. I left them at his home; yes, sir.

Q. What date in 1918 did you arrive in Fairbanks?—A. I don't think I can give the exact date, but I think it was the first part of October, the 10th or 12th.

Mr. CLARK. That's all.

MARTIN CLAICH.

Subscribed and sworn to before me this 25th day of October, 1919.

[SEAL.]

HENRY T. RAY,  
Notary Public for Alaska.

My commission expires June 7, 1920.

## DEPOSITION OF ERNEST PETERSON.

ERNEST PETERSON, being first duly sworn, testified as follows:

Direct examination, by Mr. STEVENS:

Q. State your name?—A. Ernest Peterson.

Q. Were you over the age of 21 years on November 5, 1918?—A. Yes, sir.

Q. On that date were you a United States citizen?—A. Yes, sir.

Q. Had you lived in Alaska continuously for one year prior to that time?—  
A. Yes.

Q. Did you vote at the Delegate election on November 5, 1918, in the Fairbanks voting precinct, Alaska?—A. I did.

Q. Where was your home at that time?—A. In Fairbanks.

Q. For how long prior to that time had Fairbanks been your home continuously?—A. I have called Fairbanks my home since 1905, as I have been connected with my brother in mining operations around Fairbanks from the first week I landed here up to the date hereof.

Q. You landed here in 1905?—A. Yes, sir.

Q. You say that you called Fairbanks your home during that time; did you, during that time, consider Fairbanks your home?—A. I did. Because all my belongings was here; I was here when not actually mining.

Q. Did you own a home in Fairbanks, Alaska, November 5, 1918?—A. Yes.

Q. And about how long had you owned that home prior to that time?—A. For several years.

Mr. STEVENS. That's all; you may take the witness.

Cross-examination, by Mr. CLARK:

Q. When you went to vote in Fairbanks, on November 5, 1918, did the election officials ask you where you resided?—A. I don't remember whether they did or not.

Q. Did you tell them at that time that your residence was at Brooks?—  
A. I don't remember whether I did or not.

Q. How long have you been mining at Brooks?—A. Since 1915.

Q. Where did you vote at the 1916 election?—A. I voted at Brooks.

Q. You were mining there at that time, were you not?—A. I was.

Q. Did you consider Brooks your residence in 1916?—A. At the time being, yes; while I was mining.

Q. You have been mining there ever since, haven't you?—A. Yes.

Q. You own property in the Tolovana, do you not, on Livengood Creek?—A. Yes.

Q. You own a residence on Livengood Creek, do you not?—A. Not now.

Q. You did on November, 1918, did you not?—A. I did not. It belongs to the claim on which we had a lease.

Q. Did you have any interest in the claim?—A. No.

Q. Did your family reside there with you?—A. No; I was married on the 10th of October and moved right in to Fairbanks.

Q. What day did you arrive in Fairbanks?—A. Around the 20th of October, 1918.

Q. Did you ever vote in Fairbanks before the year 1918?—A. I voted at the city election, but I don't remember exactly what year, but it was prior.

Q. At the end of the sluicing season of each year you generally come to Fairbanks for a short time, do you not?—A. Yes.

Q. Your brother, August, has been looking out for the mining project in which you are interested, while you attended to the mining project in the Tolovana, were you not?—A. Yes; with the exception that we generally go together to talk matters over. Our mining ventures around Fairbanks or Brooks.

Q. You have been mining constantly on Livingood Creek since about the year 1915, have you not?—A. Yes.

Q. Livingood Creek is in the Tolovana precinct, is it not?—A. It is since 1916, I guess.

Q. Brooks is a town on Livingood Creek, is it not?—A. Yes.

Q. Isn't it true, Mr. Peterson, that in the year 1918, it was generally understood by yourself and the public generally, that a resident of Alaska who was qualified to vote could vote at any voting precinct where he chanced to be on election day?

Mr. STEVENS. We object, as calling for legal opinion, and for the further reason that the question involves a misstatement of the law and fact.

A. It was.

Q. On election day, 1918, you understood and believed that you could vote in any precinct in Alaska where you chanced to be on that day, did you not?

Mr. STEVENS. Object for the same reasons above stated.

A. I did.

Q. There was a voting precinct at Brooks in November, 1918, was there not, Mr. Peterson?—A. Yes.

Q. Where did you vote at the general Delegate election in the year 1914?—

A. Engineer Creek.

Q. You were mining on Engineer Creek that year, were you not?—A. On 17 Goldstream.

Q. And your voting precinct was fixed at the Owl Roadhouse, was it not?

A. I am positive it was.

Q. How far is the Owl Roadhouse from the town of Fairbanks?—A. I think about 9 miles.

Q. How far is Brooks from the town of Fairbanks?—A. About 75 miles.

Mr. CLARK. That is all.

Redirect examination by Mr. STEVENS:

Q. When you voted at the Delegate election in November, 1916, at Brooks, is it not true that you and the people generally believed that a voter otherwise qualified could vote in any voting precinct where he happened to be on election day in the judicial division where he lived?

Mr. CLARK. I object on the grounds that it is a question that is leading and suggestive.

A. It was the general belief and my belief.

Q. As I understand your testimony, you considered at that time and ever since have considered that Fairbanks is your home?

Mr. CLARK. I object on the grounds that it is leading and suggestive.

A. It was.

Q. You and your brother have been for a number of years last past interested together as mining operators in a number of different places in the interior of Alaska, have you not?—A. Yes.

Q. And during that time, where has been your headquarters for doing business?

Mr. CLARK. I object on the grounds that it is irrelevant, incompetent, and immaterial, and does not tend to prove residence.

A. In Fairbanks.

Mr. STEVENS. That's all.

Recross-examination by Mr. CLARK:

Q. Fairbanks is the general supply point for this section of the Tanana Valley, is it not, Mr. Peterson?—A. Yes; and for Brooks also.

Q. This is the headquarters of the district court, is it not?—A. Yes.

Q. Did you know in 1916, at the time of the Delegate election, that the Legislature of Alaska had attempted to change the law relative to the places where the voter could vote?—A. I didn't know.

Mr. CLARK. That's all.

ERNEST PETERSON.

Subscribed and sworn to before me this 25th day of October, 1919.

[SEAL.]

HENRY T. RAY,  
Notary Public for Alaska.

My commission expires June 7, 1920.

Now, at 4.15 o'clock p. m., the hearing was adjourned until 7.30 p. m. of this day, to take the testimony of Sylvester Howell.

The hour of 7.30 o'clock p. m. having arrived, and said witness, Sylvester Howell, having failed to appear, the hearing and the further taking of testimony in this proceeding is hereby closed on this 25th day of October, 1919.

[SEAL.]

HENRY T. RAY,  
Notary Public for Alaska.

My commission expires June 7, 1920.



UNITED STATES OF AMERICA,

*Territory of Alaska, Fairbanks precinct, ss.*

I, Henry T. Ray, a notary public in and for the Territory of Alaska, duly commissioned and qualified, do hereby certify the foregoing nine pages of type-written matter, exclusive of this page, to be a full, true, and correct transcript of the questions and answers in the matter of taking rebuttal testimony in the contest proceedings before the House of Representatives of the United States, Sixty-sixth Congress, first session, James Wickersham, contestant, v. Charles A. Sulzer, contestee, and George B. Grigsby, contestee, contesting the election of Delegate from Alaska, said rebuttal testimony having been taken on behalf of contestant, James Wickersham.

In witness whereof I have hereunto set my hand and notarial seal, at Fairbanks, Alaska, this 25th day of October, A. D. 1919.

[SEAL.]

HENRY T. RAY,  
*Notary Public for Alaska.*

My commission expires June 7, 1920.

This case coming on to be heard in pursuance to notice given by contestant to the contestee for the taking of depositions of witnesses at the office of Dwight D. Hartman, notary public, in the city of Seattle, Wash., on October 25, 1919, parties appearing, James Wickersham, contestant, appearing in person, and contestee appearing by his agent, Maurice G. Leehey, the following witnesses were first duly sworn by the notary public, and then examined, as follows:

DEPOSITION OF COL. B. O. LENOIR.

Col. B. O. LENOIR, produced as a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. Please state your name.—A. B. O. Lenoir.

Q. And your official position?—A. Lieutenant colonel of the Signal Corps, United States Army.

Q. You are in charge of the Signal Corps Service in Alaska, are you?—A. Yes, sir.

Q. How long have you been?—A. Since 1913.

Q. You have given evidence heretofore in this cause, haven't you?—A. Yes, sir.

Q. Col. Lenoir, there was a man by the name of Horace R. Morgan, connected with the Signal Corps Service in Alaska. Where was he located? It is marked here at "Nulato."—A. I believe it is, to the best of my knowledge.

Q. Did you ever have any recollection of his having made an affidavit in connection with this matter, as to who he voted for at the election of November 5, 1918?—A. I believe he did make an affidavit.

Q. It was made before Albert L. Ewing, in the city of Seattle, notary public, on the 22d day of August, 1919; do you know why that affidavit was made at that time?—A. I had instructions from the chief Signal Corps officer to hold emergency men in the service, and not discharge them until this investigation was finished. His father was over here from Yakima, came over to meet him, and he said he came down from Alaska, and seemed to be very much perturbed over the idea of holding his boy into the service for the investigation, and he understood that it was with the view of ascertaining who he voted for in the Delegate election, which is contested here. And the question came up, and I don't know just how it did come up, that he was willing to tell who he voted for, if he could be released, and leave the Army. Inasmuch as that seemed to be what he was held in the service for, he agreed to give an affidavit whom he voted for, so he could get his discharge and go to Yakima. He is located at Yakima now, and he can be reached if it is wanted. His father is a business man in Yakima. His affidavit was taken in pursuance to that understanding.

Q. His affidavit was taken in pursuance to that understanding?—A. Yes, sir; as well as I remember.

Q. He was discharged?—A. He was discharged, I understand.

Q. He was discharged about the 20th day of August, 1919?—A. It has been recently.

Mr. WICKERSHAM. I wanted to introduce his affidavit upon the statement of the colonel.

WITNESS. It was understood that if he was wanted further, that he could produce him from Yakima, where his father is in business.

Mr. WICKERSHAM. I will say, Mr. Leehey, that Mr. Hartman went over to Yakima, and undertook to find this man but was unable to do so, and we have been unable to find him and get his testimony within the time fixed.

Mr. LEEHEY. I will say also, Judge Wickersham, that Mr. Moores, from my office, went over at the same time, upon notice served upon us by Mr. Hartman, to take the testimony of young Morgan.

Mr. WICKERSHAM. And wasn't found?

Mr. LEEHEY. He evidently wasn't found at that time. I could not tell you why; but a couple of days later we received a letter from him from Yakima. I never pursued the matter to determine where he was on that particular day.

I will make the general objection to the affidavit, not the best testimony, in order to preserve the record.

Mr. WICKERSHAM. I offer it.

(Affidavit marked "Contestant's Exhibit A" and hereto attached.)

Q. Col. Lenoir, you were in charge of the station at Valdez by reason of being in charge of the service in Alaska?—A. Yes, sir.

Q. I want to ask you, if you know, if there is a young man there in the service by the name of Selby?—A. I think he recently enlisted. He was a civilian employee, for a time, and, to the best of my recollection, he enlisted in the service lately.

Q. How long has he been in the service, either as a civilian employee or as an enlisted man there?—A. I could not tell you.

Q. For several months?—A. As an enlisted man, he has been there for several months. I could not tell you without looking at the record.

Q. Do you know what his name is?—A. I know that it is Selby, that is all.

Q. Do you know that he is the son of an editor of a newspaper there?—A. I understood that, but I don't know.

Mr. WICKERSHAM. You may cross-examine.

Mr. LEEHEY. No cross-examination.

B. O. LENOIR.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,  
Notary Public in and for the State of Washington,  
Residing at Seattle.

#### DEPOSITION OF G. J. LOMEN.

G. J. LOMEN, produced as a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM.

Q. Please state your name.—A. G. J. Lomen.

Q. And your age?—A. It will be 66 in January next.

Q. And your occupation?—A. Attorney at law.

Q. Where do you reside?—A. Nome, Alaska.

Q. How long have you resided there?—A. Nineteen years.

Q. You have been engaged in the practice of law there?—A. All that time.

Q. Have you held an official position there?—A. Yes, sir; a number. I have been mayor of Nome, and United States attorney during the last year and a little better, and chairman of the local board during the war period.

Q. What is your politics, Judge Lomen?—A. Republican.

Q. Do you know Mr. George B. Grigsby?—A. I do.

Q. How long have you known him?—A. About 17 years.

Q. He has resided in Nome during the period you resided there?—A. Most of the time; yes.

Q. Were you residing there during the time he came there?—A. Yes, sir.

Q. Did you know his father, Melvin Grigsby?—A. I did.

Q. What official position did his father hold there?—A. He was United States attorney since 1902, I think, for a period of time. I don't know whether he held out the four years or not; I doubt it.

Q. As a matter of fact, he was removed?—A. He was removed from office and succeeded, I think, by Henry M. Hoyt.

Q. How long did Mr. Hoyt remain there?—A. Oh, three or four years.

Q. Who succeeded Mr. Hoyt as district attorney of Nome?—A. George B. Grigsby.

Q. How long did he hold office?—A. About four years.

Q. Did you know the politics of Melvin Grigsby and Mr. Hoyt and George B. Grigsby at that time?—A. They were reputed as Republicans at that time.

Q. They were appointed by a Republican President?—A. They were appointed by a Republican President and administration, under a Republican administration.

Q. During the time Melvin Grigsby held the office what position did George B. Grigsby hold?—A. He was assistant attorney.

Q. All the time during Melvin Grigsby's holding the office?—A. I am not sure but what he held under appointment by the judge after—possibly that was—

Q. Did George B. Grigsby hold under his father as assistant district attorney?—A. Yes, sir; he did.

Q. Did he also hold under Mr. Hoyt?—A. Yes, sir; he did.

Q. During the full period?—A. That Mr. Hoyt was there, I think so.

Q. And he was then appointed district attorney himself?—A. Yes, sir; I think that was in 1908.

Q. And George held office until what time?—A. I think until 1911, or 1912.

Q. Wasn't it about 1910?—A. He was removed from the office. I don't remember just how long he had held it when he was removed.

Q. Do you know why he was removed?

Mr. LEEHEY. We object to that, because the oral statement of the witness is not the best evidence.

A. Well, it was generally understood that he was removed for cause.

Q. During all those years George B. Grigsby was a Republican?—A. So far as anyone knew there at Nome.

Q. Do you remember that in 1908, John Corson was a candidate for Delegate to Congress on the Republican ticket?—A. Yes, sir; that is, he was nominated by the Republican convention anyway that year, and I remember something about the organization of the party at that time.

Q. At Nome?—A. At Nome. I recall that Charlie Heron came to Nome before any steps were being taken toward the organization at that time, and he and George B. Grigsby were very active in organizing the party for that campaign in the interest of the Republicans at Nome.

Q. Well, in the interest of Mr. Corson, was it not?—A. I would not say that; so far as the organization went, the preconvention work, I don't think it had particular reference to Mr. Corson.

Q. But Mr. Grigsby and Mr. Heron were the organizers of the Republican organization at Nome at that time?—A. At that time.

Q. Do you know when he ceased to be a Republican?—A. Very soon after his removal from office.

Q. And since then he has been a life-long Democrat?—A. Ever since then he has affiliated with the Democrats.

Mr. WICKERSHAM. That is all.

Mr. LEEHEY. No cross-examination.

Mr. WICKERSHAM. That is all Judge, unless you have something more.

The WITNESS. No; there is not anything.

G. J. LOMEN.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,

*Notary public in and for the State of Washington, residing at Seattle.*

#### DEPOSITION OF J. FRAWLEY.

J. FRAWLEY, produced as a witness on behalf of the contestant, having been duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. State your name.—A. James Frawley.

Q. How old are you?—A. Fifty-nine.

Q. What is your occupation?—A. Lawyer.

Q. Where do you reside?—A. Nome, Alaska.

Q. Are you engaged in any other business than the practice of law?—A. Yes, sir; I have been mining.

Q. How extensive have you been mining in comparison with legal business that was done at Nome?—A. Well, I have devoted a greater portion of my time for the past several years at mining.

Q. What official positions have you held?—A. United States commissioner, and Territorial senator from the second division.

Q. You are senator from that district now?—A. Yes, sir.

Q. What is your politics?—A. Democrat.

Q. How long have you been a Democrat?—A. Always been in the Democratic Party.

Q. Do you know George B. Grigsby?—A. I do.

Q. How long have you known him?—A. The first time I saw him was during the Spanish-American War, in South Dakota.

Q. You knew him there?—A. I knew him by sight, but not to get personally acquainted with him.

Q. Have you known him ever since he has been at Nome?—A. Yes, sir.

Q. Did you know his father?—A. I did.

Q. What legal position did his father hold at Nome?—A. He was United States district attorney for the second district.

Q. About when did he go there as United States district attorney?—A. He succeeded Mr. Wood, and I think came there in 1902.

Q. How long did Melvin Grigsby hold the office of United States district attorney at Nome?—A. I could not say, but somewhere about three years.

Q. What happened to him then?—A. He was removed.

Q. Who was appointed in his place?—A. Henry M. Hoyt.

Q. How long did Mr. Hoyt hold the office of United States district attorney there?—A. He held for about three years, I think, and he received an appointment to the Philippines, or somewhere.

Q. Who succeeded Mr. Hoyt as United States district attorney there?—A. George B. Grigsby.

Q. How long did he hold office?—A. He held until, I think, the spring of 1910.

Q. What happened to him then?—A. He was removed for cause.

Q. When Melvin Grigsby came there, did George B. Grigsby come with him in 1902?—A. I won't say that he came right with him, but he came at the same time, or very shortly afterwards.

Q. What official position did he hold under Melvin?—A. He held the position of assistant district attorney under his father.

Q. What official position did he hold under Mr. Hoyt?—A. Assistant district attorney.

Q. Until he was appointed district attorney himself?—A. Yes, sir.

Q. Did you know what the politics of the Grigsbys was at Nome during those years?—A. Yes, sir; I know what they were in Sioux Falls, S. Dak., and also at Nome.

Q. What politics were they?—A. They were Republicans.

Q. And during the years from 1902 to 1910, did George B. Grigsby hold himself out as a Republican?—A. He did.

Q. And affiliated with a Republican organization?—A. Yes.

Q. After his removal in 1910, what did he do in the way of continuing his political affiliations?—A. Well, the next time that I heard of any politics was during the winter of 1911, I think it was, 1910, or 1911. At that time Mr. Grigsby was identified actively in the Democratic ranks. He was known as the "Baby Democrat."

Q. He has been a Democrat ever since?—A. Yes, sir; he has affiliated with that party.

Cross-examination by Mr. LEEHEY:

Q. You and Mr. Grigsby haven't been particularly friendly, have you?—A. We never had any personal differences, except as to certain political actions that he has taken, or attempted to take.

Q. Quite a sensational controversy waged some time before he left the office of district attorney, didn't it, Mr. Frawley?—A. I will state I was not in Nome, or around there at the time. I was about 200 miles from there, and consequently I don't know just exactly what took place there at that time.

Q. It was commonly understood, wasn't it, that one Jafet Lindberg was responsible for Mr. Grigsby's removal from office; at least was opposing him politically at that time, was he not?—A. I don't know as he opposed him politically, but I do know that he opposed him as a proper party to fill the office of district attorney.

Q. Were you not identified with what is known as the Lindberg faction at that time?—A. No, sir; I was not. I never have been.

Q. You were political enemies of Mr. Grigsby ever since he became a Democrat, were you not?—A. No, sir; I haven't been.

Q. Haven't you counseled and advised in the Democratic Party at Nome?—A. After Mr. Grigsby got into it, I never was invited into his faction of the Democratic Party at Nome.

Q. Then there were factions of the Democratic Party at Nome?—A. Yes, sir.

Q. And you and Mr. Grigsby have belonged to opposing factions. You were not at the same convention with Mr. Grigsby?—A. I will state that I joined neither faction. I kept aloof from both sides.

Redirect examination by Mr. WICKERSHAM:

Q. Mr. Lindberg is a Republican, is he not?—A. Yes, sir.

Q. Always has been?—A. Yes, sir.

Q. So when Mr. Lindberg is alleged to have driven George out of the Republican Party, he went and joined the Democrats?—A. It was when he lost his position as district attorney that he joined the Democratic Party.

JAMES FRAWLEY.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,

*Notary Public for the State of Washington, residing at Seattle.*

#### DEPOSITION OF S. J. BAKKE.

S. J. BAKKE, produced as a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. What is your name?—A. S. J. Bakke.

Q. How old are you?—A. Forty-nine.

Q. What is your business?—A. I am with the Moonlight Water Co.

Q. At Nome?—A. Yes.

Q. Have you ever held any official position at Nome?—A. Postmaster for a term of four years.

Q. What is your political affiliation?—A. Republican.

Q. Do you know George B. Grigsby?—A. Yes.

Q. Do you know his father, Melvin Grigsby?—A. Yes.

Q. When did you go to Nome?—A. In 1899.

Q. How soon after he came did you know Melvin Grigsby?—A. Oh, I don't know about the time that he come, in 1902 or 1903 I guess.

Q. What official position did he hold there?—A. United States district attorney.

Q. How long did he hold that office?—A. A couple of years, I guess.

Q. And what happened to him then?—A. He lost his position, I understand.

Q. He was removed?—A. Yes, sir.

Q. Do you remember who was appointed in his place?—A. Mr. Hoyt.

Q. Henry M. Hoyt?—A. Yes, sir.

Q. He was appointed United States district attorney in Melvin Grigsby's place?—A. Yes, sir.

Q. How long did he hold the office?—A. A couple of years, I think.

Q. He was appointed to some other office, and left the Territory?—A. Yes, sir.

Q. Who was appointed in his place?—A. George B. Grigsby.

Q. How long did he hold the office?—A. Oh, I don't know, but he held it a couple of years, I think.

Q. Until the spring of 1910; is that correct?—A. I think so.

Q. Then what happened to him?—A. He was removed for cause.

Q. Did George B. Grigsby come there with his father in 1902?—A. Yes.

Q. What did he do then?—A. Assistant district attorney.

Q. Under his father?—A. Yes, sir.

Q. Was also assistant district attorney under Mr. Hoyt?—A. Yes, sir.

Q. He was appointed district attorney himself?—A. Yes, sir.

Q. So that from 1902, to the spring of 1910, George B. Grigsby was in Nome as assistant district attorney or as the district attorney?—A. Yes.

Q. Do you know what political party he tried to belong to during those years?—A. Well, I always understood him to be a Republican.

Q. Were you there in 1908, when the Corson campaign started up?—A. Yes, sir.



Q. Do you know whether he took any interest in the organization of that campaign?—A. I understood that he was very active with Mr. Heron in that campaign at that time.

Q. As a Republican?—A. Yes, sir; as a Republican.

Q. After his removal by President Taft in 1910, do you know what he did then in the way of politics?—A. Well, he joined the Democratic Party, and they always used to call him the "Baby Democrat" at that time.

Q. And he has been a very persistent, earnest Democrat ever since?—A. Yes. Mr. WICKERSHAM. That is all

Mr. LEEHEY. No cross-examination.

Subscribed and sworn to before me this — day of October, 1919.

*Notary Public Within and for the State of  
Washington, Residing at Seattle.*

#### DEPOSITION OF OTTO KRAFT.

OTTO KRAFT, produced as a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. You will state your name.—A. Otto Kraft.

Q. How old are you?—A. Fifty-four.

Q. What is your business?—A. Merchant.

Q. Where do you reside?—A. Kodiak, Alaska.

Q. How long have you resided at Kodiak, Alaska?—A. Since 1885.

Q. Since 1885?—A. Yes, sir.

Q. That is 34 years; are you a married man?—A. Well, I was up to last summer.

Q. Your wife is dead now?—A. Yes, sir.

Q. Have you a family?—A. Yes, sir.

Q. How many children have you?—A. Six, alive.

Q. Where were they born; at Kodiak?—A. All at Kodiak.

Q. You are a merchant and have a residence there?—A. Yes, sir.

Q. Have you made your residence there continuously all the 35 years?—A. Yes, sir.

Q. Were you pretty well acquainted with the people in and around Kodiak?—A. Yes, sir.

Q. They trade with you, and have for many years?—A. Yes.

Q. Are you well acquainted with the people on the Afognak Island?—A. Yes.

Q. How far is Afognak from Kodiak?—A. About 28 miles.

Q. Are you about as well acquainted with the people on Afognak as you are at Kodiak?—A. Yes.

Q. Do any of them trade with you?—A. Yes.

Q. How long have they traded with you?—A. Since I have been in business for myself, from 1903.

Q. And before that you knew them?—A. I knew them; yes, sir.

Q. What were you engaged in there before 1903?—A. I was employed by the Alaska Commercial Co. and the North American Commercial Co.

Q. There at Kodiak in the mercantile business?—A. Yes, sir.

Q. Has your acquaintance with the people at Afognak been very intimate, or otherwise? Have you known them very well?—A. Very well.

Q. How often do you get to see them?—A. They are back and forth, some of them, all the time between Afognak and Kodiak.

Q. Do you know the merchants over at Afognak?—A. I know them all.

Q. Who is engaged in the mercantile business over there?—A. Herman von Scheele.

Q. How long has he been in business there?—A. Almost since I have, as near as I can remember, since I have been in Kodiak.

Q. What other merchants are there at Afognak?—A. Charlie Pajoman.

Q. How long has he been in business there?—A. I think 12 or 13 years.

Q. What other business man is engaged there?—A. E. Peteelen.

Q. What business is he in?—A. They are all merchants.

Q. How long has he been engaged in business there?—A. He used to be in Hope for the Alaska Commercial Co.

Q. Are there any other business houses there?—A. No, sir.

Q. Those are the stores?—A. Yes, sir.

Q. How many people reside at Afognak?—A. I don't know; I believe somewhere around 300.

Q. How long have they resided there?—A. I don't know. That settlement has been there ever since I got to Kodiak.

Q. Have they got a church at Afognak?—A. Yes, sir.

Q. What sort of church have they got there?—A. A Greek Catholic Church.

Q. Is there a similar church at Kodiak?—A. The same.

Q. As a matter of fact, Kodiak and Afognak are among the old established Russian settlements, are they not?—A. Yes, sir.

Q. You know the people generally at Afognak. What kind of people they are?—A. Well, they are mixed blood, some of them call themselves Creole, and some call themselves Aleuts.

Q. Are there some Russians?—A. The full blood Russians, not that I know of, except Charlie Pajoman, he is a Russian.

Q. There are a great many mixed bloods there?—A. Yes, sir; most of them mixed. Of course, there are some white men.

Q. How do these people dress?—A. Like any other; like the white men.

Q. Do they all wear clothes just like you do?—A. Yes, sir.

Q. Do they have homes?—A. They all got their own homes.

Q. What kind of homes do they have?—A. Log houses, like most generally all the log houses in that part of the country.

Q. Afognak is in the Jugak Forest Reservation, is it not?—A. Yes.

Q. Is there timber on the Afognak Island?—A. Yes, sir.

Q. Is there any sawmill there?—A. They established, Charlie Pajoman is going to establish one there now.

Q. But there never has been one there?—A. No.

Q. So such buildings as they put up, they had to either bring the lumber in or build the log houses?—A. Yes, sir.

Q. Do many of those native people read and write?—A. Not many.

Q. Some of them read and write?—A. Some of them do, but in Kodiak, I guess over half of the older generation can't read or write.

Q. But the younger ones can?—A. Oh, yes. A school was established there in the fall of 1886, and we had the first school in Kodiak then, and I presume Afognak was many years later.

Q. Is there any Indian reservation of any kind that you know of?—A. No; there is not.

Q. How long has the Russian Greek Church been located in that neighborhood?—A. That is over 100 years.

Q. It was long before you came there?—A. Yes, sir; over 100 years.

Q. What kind of looking church have they at Afognak?—A. A nice building; not quite as large as in Kodiak, but they have got churches in all of those settlements on Kodiak Island; even among what we call the Aleut settlement. There is no priests; they hold their own services.

Q. All those people belong to church, do they not?—A. Oh, yes, sir.

Q. Without any exception?—A. Without any exception.

Q. The Greek Catholic Church was established there by the Russians when they first made settlement on the island?—A. Yes, sir.

Q. What kind of people are they with respect to obeying the laws?—A. The same as any other people. They obey the laws.

Q. Some of them read and write, and some do not, you say?—A. Some do not.

Q. But they all live in their own separate homes?—A. Yes, sir.

Q. Do they have any cattle?—A. Yes; a good many of them have cattle, the same as in Kodiak.

Q. How long have they had cattle?—A. Ever since I came to the country.

Q. They had chickens around?—A. Chickens.

Q. Do they make gardens?—A. Yes, sir.

Q. Is that true of all of them, or is there any particular body of them that is different?—A. Not to my recollection.

Q. So far as you are acquainted with them, they all act about alike?—A. They all act about alike.

Q. Is there any particular difference between those people at Afognak, and those at Kodiak?—A. Well, in Kodiak, of course they may be a little more sty-

lish, more up to date, than they are in Afognak. They have steamer connection and all this, and Afognak has not.

Q. But so far as their citizenship is concerned, their general character, etc., is that any different?—A. No, sir; none. They have better homes in Kodiak, of course, than they have in Afognak, being a larger place.

Q. What kind of homes do they have in Afognak? Are they comfortable?—A. Comfortable homes; yes.

Q. What do they have in their homes?—A. Furniture, according to their means.

Q. What would you say with respect to these native people there at Afognak, and the Creoles, and what you call the Aleutes, as to their being civilized or uncivilized?—A. They are all civilized. There are no uncivilized people there.

Q. Do they act together as a tribe of Indians do?—A. No, sir; not that I know of.

Q. Do they act like white people in their dealings?—A. Yes, sir; always act alike. I can't tell the difference between the Creoles and the Aleutes.

Q. Can you tell any particular difference between those people who live at Kodiak, and those who live at Afognak?—A. No, sir. At Kodiak there may be more, or a good deal more, of intelligence than at Afognak. They have had better schooling.

Q. In other words, they have had schools longer at Kodiak?—A. Yes, sir; and they mix more with the whites.

Q. Do they have picture shows at either place?—A. They have at Kodiak, but they have not at Afognak.

Q. But they have schools at Afognak?—A. Yes, sir.

Q. And a church?—A. They have three teachers there.

Q. Do the natives and the Creoles there go to school, the children?—A. Yes, sir. That is compulsory now.

Q. What business do those people at Afognak follow?—A. Fishing, and hunting, and working in the canneries.

Q. Is that the same kind of business as those people at Kodiak follow?—A. Yes, sir; the same business.

Q. How about being good, law-abiding citizens?—A. They are good, law-abiding citizens.

Q. Do they compare favorably in that respect with the white people?—A. Yes, sir.

Q. Are they a timid sort of people?—A. They are.

Q. Tell me about that.—A. They are not rough or bolsterous.

Q. They are a gentle, quiet sort of people?—A. They are gentle and quiet; yes, sir.

Q. Do you know where those people were born who reside at Afognak?—A. They were born in Afognak.

Q. They have been born there, and lived there all their lives?—A. Yes, sir; born there and lived there all their lives.

Q. And live in their own homes?—A. Yes.

Q. They don't have community houses, do they?—A. No.

Q. Each family has its own house?—Yes, sir; each family has its own house.

Q. What portion of them own a cow, or cattle, or chickens, or pigs, or live stock?—A. That I don't know. I didn't get very often over there, maybe once in two or three years.

Q. You met them at Kodiak?—A. No, sir; I may take a trip to Afognak.

Q. But generally, I say, you met them in Kodiak?—A. Generally I met them in Kodiak. A good many of them are employed by the Kodiak Fisheries Co. there, right in Kodiak.

Q. Are they good workmen?—A. Yes, sir; some of them even have got a carpenter trade.

Q. Do they build boats?—A. Boats and houses.

Q. Do any of them own motor boats?—A. No.

Q. What kind of boats do they use?—A. Generally dories.

Q. They have not got to the motor-boat stage at Afognak yet?—A. No. Of course, they have got a good many motor boats at Kodiak. There are a few of them at Afognak that have got these Evenrudes, outboard motors, maybe three, or four, or five.

Mr. WICKERSHAM. That is all.

Mr. LEEHEY. No cross-examination.

Mr. WICKERSHAM. It is agreed between the contestant and contestee that the witnesses in this case may sign the depositions if they remain long enough;

otherwise their testimony may be taken without their signatures. Is that satisfactory, Mr. Leehey?

Mr. LEEHEY. I agree to that on behalf of the contestee.

OTTO KRAFT.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,

*Notary Public in and for the State of Washington, residing at Seattle.*

DEPOSITION OF RINGWALD BLIX.

RINGWALD BLIX, produced as a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. You may state your name.—A. Ringwald Blix.

Q. Where were you born?—A. In Norway.

Q. Are you a citizen of the United States?—A. Yes, sir.

Q. A full citizen?—A. Yes, sir.

Q. How old are you?—A. Forty-seven.

Q. Where do you reside?—A. Copper Center, Alaska.

Q. How long have you resided at Copper Center, Alaska?—A. Since 1898.

Q. You were one of the original locaters at Copper Center?—A. Yes, sir.

Q. What has been your business there?—A. Mercantile, and hotel, and road-house.

Q. What official positions have you held there?—A. Postmaster and United States commissioner.

Q. Do you own property there now?—A. Yes, sir.

Q. You have owned the hotel there, and the various other buildings in the town, and been instrumental in building up the town all those years—for 20 years?—A. Yes, sir.

Q. When were you postmaster there?—A. From 1901 to 1918.

Q. In 1918 you resigned, or left there for the outside?—A. Yes, sir.

Q. There was trouble about the appointment of postmaster when you left there, was there not?—A. Yes.

Q. You owned the building where the post office was kept?—A. Yes, sir.

Q. And you naturally wanted the post office to be kept in your building?—A. Yes, sir.

Q. Was there a proposition of removing the post office from your place?—A. There was.

Q. Where to?—A. To John McCrearie's place.

Q. About how far from Copper Center was that?—A. A half mile north of Copper Center.

Q. Outside of the settlement?—A. Yes, sir.

Q. And away from where people did business?—A. Yes, sir.

Q. Did you oppose that movement to move the post office?—A. I did.

Q. Did the people there take a good deal of interest in Copper Center?—A. Yes, sir.

Q. What was done about the matter, Mr. Blix; did you consult the Democratic officials about the matter?—A. Yes, sir.

Q. Whom did you consult?—A. One Judge Irwin, United States marshal of the fourth division. I think I can explain that.

Q. If you have any explanation to make about the matter, go ahead and do it.—A. About January, 1918, I had contracted to dispose of my interest there in the hotel, and mercantile business, to a man by the name of Ditman, and, as I wanted to be relieved of the postmastership, naturally I recommended him as my successor to the Post Office Department, and I wrote them to that effect and recommended this man Ditman. In the meantime, John McCrearie heard about my resignation as postmaster, and he took it up with one T. J. Donohue, the Democratic committeeman, to get the appointment himself.

Q. Mr. Donohue resided at Valdez?—A. Mr. Donohue resided at Valdez. And Mr. Donohue took up the matter with Mr. Sulzer at Washington at that time, the Delegate from Alaska, and I found out about it, and took up a petition signed by all the patrons of the office, objecting to the appointment of Mr. McCrearie, as well as the moving of the post office to his place. About April 19, Judge Irwin—

Q. That is Marshal Irwin of Fairbanks?—A. Marshal Irwin of Fairbanks came through Copper Center on his way to the States, and I took up the matter with him regarding the appointment of the proper man that the people in the community wanted for postmaster, and, knowing that Judge Irwin would have more influence in Washington than probably Mr. Donohue and Mr. Sulzer combined, I took the matter up with him, and he led me to believe that he could have the office kept where it was at that time; also the proper man appointed, and Mr. McCrearie's name withdrawn upon his arrival there at Washington.

Q. Well, what was done about it?—A. I took up the petition, circulated it, and had it signed by the patrons of the office, and mailed it to Marshal Irwin at Washington, D. C. I think that is about all, up to the time that these telegrams took place.

Q. What sort of an arrangement did Judge Irwin think ought to be made in consideration of his procuring these things for you and the patrons of the office?—A. That they should, in turn for that, favor Mr. Sulzer at the primary election.

Q. And at the fall election too?—At that time the general election wasn't spoken of.

Q. Was it later?—A. But that naturally would come later in the turn.

Q. Did you receive any telegram from Judge Irwin about the matter?—A. I did.

Q. I show you a telegram here, dated April 22, 1918, signed by L. T. Irwin, and ask you if you received that from Marshal L. T. Irwin?—A. Yes, sir.

Q. He was at that time in Cordova?—A. Yes, sir.

Q. It was just after he had passed through your place going out to the coast?—A. Yes, sir.

Q. And that relates to matters and things that you have been talking about?—A. Yes, sir.

Q. To his agreeing to maintaining the post office and procuring your postmaster to be appointed at Copper Center?—A. Yes, sir.

Mr. WICKERSHAM. I offer that in evidence.

Mr. LEEHEY. I object to it as being incompetent, immaterial, and irrelevant, and no connection being shown with Mr. Sulzer or anybody authorized in his behalf.

(Paper marked "Contestant's Exhibit B" and attached hereto.)

Q. Did you receive any telegram from Marshal Irwin later than that?—A. I did.

Q. I show you a telegram dated Washington, D. C., May 14, 1918, signed "L. T. Irwin," and ask you if you received that telegram?—A. I did.

Q. I withdraw that for a moment, and offer the witness a telegram dated May 2, 1918, addressed to Charles A. Sulzer, House of Representatives, Washington, D. C., and signed by R. Blix, postmaster, and I wish you would state if you sent that telegram to Mr. Sulzer at the date it bears?—A. Yes, sir.

Q. That was after the primary election had been held?—A. Yes, sir.

Q. What was the date of the primary election?—A. I can't quite recollect; April 30, I think.

Q. Two days before this telegram was sent?—A. About two or three days; shortly before anyway.

Mr. WICKERSHAM. I offer this telegram in evidence, and ask to have it marked as an exhibit.

Mr. LEEHEY. I object to it as being incompetent, immaterial, and irrelevant.

(Telegram referred to marked "Contestant's Exhibit C" and attached hereto.)

Q. Now, this telegram from Washington, D. C., dated May 13, signed by L. T. Irwin, was received subsequent to your sending this other one to Mr. Sulzer?—A. Yes, sir.

Q. And you received that telegram?—A. Judge Irwin sent me this in reply to the one I sent. I expected a reply to mine from Mr. Sulzer, but Mr. Irwin wired for him as well as for himself.

Mr. WICKERSHAM. I offer that in evidence.

Mr. LEEHEY. I would like to ask a question of the witness to explain the apparent changes on the telegram.

By Mr. LEEHEY:

Q. It appears to have been signed by Lieut. Irwin, and the word "Lieutenant" stricken out and the capital letters, and initials "L. T." written on



it?—A. That was a mistake of the operator in charge. He didn't get that right.

Q. How do you know that?—A. I called his attention to it at the time, and he corrected it.

Q. You asked him to make the correction, and he did so?—A. Yes, sir.

Mr. WICKERSHAM. "L. T." are the initials for lieutenant also?

A. Yes, sir.

Q. Mr. Irwin's name is L. T. Irwin?—A. Yes, sir; that is correct.

Mr. WICKERSHAM. I offer it in evidence.

Mr. LEEHEY. I object to it as being incompetent, immaterial, and irrelevant.

(Telegram referred to is marked "Contestant's Exhibit D," and hereto attached.)

By Mr. WICKERSHAM:

Q. Do you know what Mr. Sulzer did with respect to these matters that you were telegraphing about in the way of getting the post office retained for you, and your postmaster appointed, in Washington?—A. Yes, sir.

Q. What was done?—A. Judge Irwin and Mr. Sulzer went up to the Second Assistant Postmaster General—

By Mr. LEEHEY:

Q. Are you testifying from your personal knowledge or hearsay?—A. From our conversation with Judge Irwin.

Q. From what Judge Irwin told you?—A. Yes, sir.

Mr. LEEHEY. We object to repeating what Judge Irwin told him. He is not a party to this contest.

By Mr. WICKERSHAM:

Q. Who is Judge Irwin?—A. United States marshal of the fourth division.

Q. At Fairbanks, Alaska?—A. Yes.

Q. He is a Democrat, is he?—A. Yes, sir; to my knowledge.

Q. And Mr. Sulzer was a Democrat?—A. Yes, sir.

Q. And Judge Irwin was one of Mr. Sulzer's particular friends and boosters?—A. Yes, sir.

Q. And was working for Mr. Sulzer in those matters?—A. Yes, sir; from the interest he took on his way out over the trail, on his way to Washington, it seems that he was.

Q. Well, is he still in office as United States marshal at Fairbanks?—A. To my knowledge he is.

Q. Now, at the following election did the same arrangement and consideration go? Did the patrons of the office, Mr. Detman, and those people there, come through with the votes as they had agreed?—A. It seems so, more so than at the primaries, because Mr. Sulzer got all there.

Q. He got all the votes?—A. He got all the votes at the general election.

Q. On November 5, 1918?—A. Yes, sir. At the primaries—

Q. I got one.—A. Mr. Sulzer got 17 and Mr. Wickersham 1.

Q. We were not candidates, however, for the same office in the primaries. I mean to say, I was a candidate for the Republican nomination, and he was a candidate for the Democratic nomination for delegate?—A. Yes, sir.

Q. It was not an election to determine who should be elected, but who should be nominated?—A. That is correct.

Q. And he was being opposed by a man named Maloney?—A. Yes.

Q. And I had no opposition for the Republican nomination, is that right?—A. Yes, sir; that is right.

Q. When the fall election, on November 5, came on, I received no votes at all there and Mr. Sulzer received all of them?—A. Yes.

Q. And that all arose from this agreement about the post office and the appointment of the postmaster; is that correct?—A. Yes, sir.

Q. Therefore I had received a good many votes always at the Copper Center, had I not?—A. Yes, sir; the record will show what you received before.

Q. But by reason of this agreement I received none on November 5, 1918, did I?—A. You received none.

Cross-examination by Mr. LEEHEY:

Q. You say the fact that all the votes of Copper Center precinct were cast for Mr. Sulzer in the 1918 election, all results from this arrangement over the postmaster; how do you know that; what means have you of knowing that to be a fact, or is it just your conclusion or deduction?—A. I have lived there and

been there since and talked with those people that voted, and it was in consideration of the post office being kept where it is, they thought.

Q. They were pleased with Mr. Sulzer's action in doing it, weren't they?—A. That they were bound to vote for it.

Q. They were pleased with the fact that he kept the post office where they wanted it, weren't they?—A. At that time it seemed so.

Q. And they thought that in doing so that he had done for their interest what they expected of a Delegate to do, did they not?—A. Yes, sir.

Q. They thought his action in keeping the post office where practically everybody in the community wanted it was a very proper action to be taken by the Delegate from the Territory, did they not?—A. It was at that time.

Q. And they approved his course in doing it?—A. Yes.

Q. Didn't you say in your direct examination that the talk you had with Judge Irwin, and this very arrangement related only to the primaries?—A. At that time.

Q. Was there anything said about the fall election in your talk with Marshal Irwin?—A. In his wire from Washington it states, if you have read that.

Q. I am not referring to the wire, I am referring to the talk you had with him. The wire will speak for itself. Was the fall election ever mentioned in any of the conversations you had with Judge Irwin?—A. Yes, sir; it was.

Q. How and when?—A. Well, at the time when he left there.

Q. That was before the primary election, wasn't it?—A. Yes.

Q. What was said about the fall election?—A. He said he hoped we would stick to him and give him a pretty good showing. It was a foregone conclusion that he would get those votes then.

Q. It was a foregone conclusion that he would get them at the primary or general election.—A. At the primary.

Q. That was the subject that was under discussion at that time, was the primaries?—A. Yes.

Q. And his contest that the primaries was with Mr. Maloney? That was what was then discussed?—A. Yes; but the general was also mentioned.

Q. But the general was also mentioned. What do you mean by "general"?—A. General election was also mentioned.

Q. Who mentioned it?—A. Judge Irwin and myself, when he left there.

Q. Didn't you just say in direct examination that the talk was then all about the primaries?—A. Not all together, but most naturally the primary came so many months ahead of the general election, and it would be natural it would have something to do when the general election came around.

Redirect examination by Mr. WICKERSHAM:

Q. So the understanding really was that this consideration covered both elections?—A. Yes, sir.

Mr. LEEHEY. That is, that is your conclusion, or deduction was that it was to cover both elections?

A. Yes, sir.

RINGWALD BLIX.

Subscribed and sworn to before me this 31st day of October, 1919

DWIGHT D. HARTMAN,

*Notary Public in and for the State of Washington, residing at Seattle.*

(And thereupon an adjournment of the taking of depositions was taken until 2 o'clock p. m., same day.)

At 2 o'clock p. m., October 24, 1919, pursuant to the adjournment, the taking of depositions was resumed, as follows:

DEPOSITION OF WALTER H. JOHNSON.

WALTER H. JOHNSON, produced as a witness on behalf of the contestant, having been first duly sworn, testified as follows:

Direct examination by Mr. WICKERSHAM:

Q. Please state your name?—A. Walter H. Johnson.

Q. How old are you?—A. Thirty-six.

Q. Where do you reside now?—A. Seattle.

Q. Have you ever resided in Alaska?—A. Yes, sir.

Q. When?—A. From 1909 until 1918, September.

Q. During those nine years, what was your business in Alaska?—A. For eight and a half years, approximately, I was connected with the Government; superintendent of schools, assistant superintendent.

Q. Where were you located?—A. Nome, and St. Michael, Unalakleet. My headquarters first were at Unalakleet as superintendent.

Q. How long did you live at Unalakleet?—A. Most of my time was spent in traveling, but I received my mail, and so forth, at Unalakleet. For a year my headquarters were at Unalakleet, and St. Michael about three years.

Q. And at Nome?—A. Five years.

Q. Are you acquainted with the natives at Unalakleet and St. Michael and Nome?—A. Yes, sir.

Q. You knew them during those years?—A. Yes, sir.

Q. What business relations did you have with them as superintendent of schools there?—A. A good many of those men were put in charge of various fields of endeavor by me as superintendent. I took Unalakleet men with me as guides on the trail, and I put Unalakleet men in charge of our reindeer herds, worth thousands of dollars, complete charge, and would leave them for months at a time, buying, and dispensing of supplies to the various herders. The chief herders' duties include that. And they sailed my boat, schooners, made their own schooners, and anything that I needed done in that section, from interpreting to hauling me around with dog team or reindeer.

Q. How many people generally reside at Unalakleet?—A. At that time there were between 300 and 500. They are sort of Nomadic. They camp within a radius of 20 or 30 miles in the summer time and come home in the winter time.

Q. They come home in the winter time?—A. Yes.

Q. They go off to fish?—A. Yes, sir.

Q. Was the school there at Unalakleet?—A. Yes, sir.

Q. What kind of a school?—A. A school with three teachers.

Q. Under your supervision?—A. Yes, sir; a Government school.

Q. What class of people attended that school?—A. They were very intelligent. The older pupils, these children are, as a rule, intelligent, and adapt themselves readily to the customs of the whites, if given an opportunity.

Q. How many children attended the school under your supervision?—A. From 70 to 90.

Q. You had three teachers?—A. Yes, sir.

Q. What kind of schools?—A. Very modern schools.

Q. Built by the Government?—A. Yes.

Q. Is there a reservation there, or what sort of a tract of land do you have there?—A. Just a small lot; perhaps an acre in extent.

Q. For the schoolhouse?—A. For the schoolhouse. The natives have their own lots. In the early days a village was sort of platted, and each native allowed a certain lot, or portion of a certain lot.

Q. In other words, they lived separate and apart there?—A. Yes, sir. They even have their own lots, as you might say.

Q. Their own houses?—A. Their own houses, a good many frame houses, and log cabins. The frame houses were very well built. They have to be to stand the severe winters.

Q. How do the houses compare with the houses inhabited by white people in that country?—A. As a general average they are better than the white people live in. The natives are there for life and the white men are perhaps there for just a week.

Q. What sort of furniture did they have in their houses?—A. A good many natives have furniture that is made in the manual training school. There is a manual training school in connection with the Government school, and in the manual training school a good many household articles of furniture are made. Many natives are good carpenters, and in Unalakleet they send out for supplies to Sears & Roebuck, and buy them at St. Michaels. There are many ranges, sewing machines. Most of the families have sewing machines; several organs, phonographs, etc.

Q. They have phonographs, organs, and sewing machines?—A. Yes, sir.

Q. How many rooms do they have in their houses?—A. Generally two rooms. There are a few that have three.

Q. And the houses are fit for habitation?—A. Yes, sir.

Q. How many of those people there at Unalakleet can read and write?—A. All of the younger generation practically.

Q. By "younger generation," what do you mean? How old do you intend to include?—A. The last two decades, say 20 years; that is, children up to 25 or 30 years of age.

Q. What church is established there?—A. There is a Swedish Evangelical.

Q. There is a minister of that church there?—A. Yes, sir.

Q. What kind of church have they?—A. Of course, it is a frame church. It is quite a building. The natives carry on, in the absence of the minister, the natives have their own services, and have their own deacons, and they preach, and if necessary, another native interprets back to the Esquimaux, and the man will talk Esquimaux, or English. One service a day is held in Esquimaux alone. It is held in Esquimaux language, for the reason that the parents, the older people, can not understand the English language very well.

Q. How many people are there of Russian blood, have Russian blood in them?—A. I don't know of a single one that has really Russian blood at Unalakleet.

Q. There are half-breeds among them?—A. Yes, sir; a good many half-breeds.

Q. They are all of English blood you say?—A. Yes, sir.

Q. How many of them have arrived at the age of manhood and womanhood?—A. Well, there are about a dozen of boys and girls, I should say, of 18 or 20.

Q. That are above 21?—A. And near that age.

Q. How many women there of native blood are married to white men?—A. The last time I was there there were about eight. The white men move frequently. They come back, because the native women insist upon them coming back to see their folks.

Q. Do they have homes there too?—A. Yes.

Q. The white men who are married to native women there, do they live in any better houses than the other natives do?—A. They do not. They generally try to rent some native man's house, because it is, as a rule, better constructed than the average white man's house is built or constructed there.

Q. How do those natives at Unalakleet compare with those over at St. Michael in civilization and their general character as citizens?—A. To the best of my knowledge, the natives at Unalakleet are the furthest advanced of any natives along the northwestern coast. They live in better homes. They are better educated, better dressed, and cleaner, and their food is better than any natives I have seen in the northwest and western sections of Alaska.

Q. And in all respects you think they are superior to those over at St. Michael?—A. Indeed I do.

Q. You know the natives at St. Michael vote, do you not?—A. Yes, sir.

Q. And those at Unalakleet vote?—A. Yes, sir.

Q. How long have they been casting a ballot?—A. I am not positive of that, but I believe at least two previous elections.

Q. That is, 1914, 1916, and 1918?—A. Yes, sir.

Q. They all voted at those three elections?—A. As I recall.

Q. You are not sure about them voting prior to that time?—A. No.

Q. What particular influence tends to control them at St. Michael, if you know, in the matter of politics and voting?—A. In general, a man who is doing a favor to the natives any time, unless the native is well educated, that man can control them as to their vote—that is, they will do as he wishes; whereas if they are educated, and have heard both sides of any question, it is almost impossible to turn them. Up to the time of voting they may feel that they will do as you expect them to, but at the actual casting of their ballot they will mark it their own way. That has been proven.

Q. In other words, they are pretty independent?—A. Very independent at Unalakleet; they are so.

Q. They are independent at Unalakleet?—A. Yes, sir; at St. Michael and other places where the native is not as far advanced in civilization they will follow the directions of the leader.

Q. Do you know who has a good deal of control over them at St. Michael; do you know?—A. Judge Koen.

Q. The commissioner over there?—A. Yes, sir; the commissioner has control.

Q. Isn't it true that he has a very powerful influence with them in the matter of elections at St. Michael?—A. Judge Koen has a powerful influence over the natives of St. Michael. He is their banker, their adviser, he fines them, and clears them, and, in fact, he has more to do with the natives of St. Michael than

any man I know. I believe a good many of them would respect his wishes in anything.

Q. And do about what he wanted them to do?—A. Yes.

Q. Do you think that anybody has exerted influence of that kind over the natives at Unalakleet?—A. I do not.

Q. Your experience with them is that they are more independent than the natives at St. Michael?—A. Yes, sir; I believe so.

Q. Do they have any tribal relations at Unalakleet?—A. None that I know of. They don't even have a Kazhim.

Q. What is that?—A. That is a community lodge, or dance hall, you might say. A community dance hall at night and workshop in the daytime.

Q. But they don't have anything of that kind at Unalakleet?—A. They don't have anything of that kind at Unalakleet. At Unalakleet they have a building for manual training.

Q. Instead of a Kazhim?—A. Yes, sir. And they have a church, where they get together three times a week.

Q. They have no chief at Unalakleet of any kind?—A. None that I ever heard of.

Q. And no tribal relations at all?—A. No, sir; no tribal relations at all.

Q. You think, as a matter of fact, that at Unalakleet they have severed all their tribal relations?—A. Yes, sir.

Q. And they live separate and apart from any tribe in their own home?—A. Yes, sir; there is no man designated as chief; whereas at St. Michael there are two designated as chiefs.

Q. But even there the chief does not have much influence?—A. No, sir; no influence to speak of, except with a few of the old superstitious natives.

Q. But with all the younger people they have given up the idea of chiefs, even at St. Michael?—A. Yes, sir.

Q. What would you say as to the natives at Unalakleet being civilized?—A. I believe the natives at Unalakleet are civilized as any community, I would say, in the Northwest, or the western section of Alaska can be, where the population has as great percentage of natives as at Unalakleet. The whites populate a great many of the better native villages that they care to.

Q. Do those men at Unalakleet build boats?—A. Yes, sir.

Q. Have they any boats there?—A. Yes, sir; several.

Q. What kind of boats have they?—A. Schooners and power boats of various sorts.

Q. They are good carpenters and boat builders?—A. Very good.

Q. Do they work with white people, a good many of them?—A. A good many of them, and a good many of them work for themselves independent.

Q. What do those do who work for themselves?—A. They take out lumber and saw it, and build boats, and build houses, and put them up.

Q. They are artisans and mechanics?—A. Yes.

Q. What do those do who work with white people?—A. They often go over to St. Michael and work on the boats in the summer, some of them. Some of them mine coal, some of them cut wood; that is, timber and drift it down. A good many of them fish and cure fish in various ways. They are provident.

Q. Compare those people at Unalakleet with all the people in Alaska; do you think they are entitled to vote if any other native in Alaska is entitled to vote?—A. I believe that the natives at Unalakleet are better prepared to vote than any native in western and northwestern districts of Alaska.

Mr. WICKERSHAM. That is all.

Mr. LEEHEY. No cross-examination.

Subscribed and sworn to before me this — day of October, 1919.

*Notary Public in and for the State of Washington, residing at Seattle.*

#### DEPOSITION OF JAMES WICKERSHAM.

JAMES WICKERSHAM, produced as a witness in his own behalf, having been first duly sworn, testified as follows:

#### Direct examination:

WITNESS. My name is James Wickersham; I am 62 years old and contestant in this case.

In the summer of 1918 I made a tour of the Nome country and visited St. Michael. I did not go to Unalakleet; but while I was at St. Michael I met a



number of the Unalakleet men at St. Michael in company with the minister of the Swedish Evangelical Church at Unalakleet, and had a long conversation with them. I talked to the minister and to the men themselves about the necessities of their locality, and they expressed a very decided interest in political matters as well, and told me they intended to support me at the coming election on November 5. They were an intelligent body of men, well dressed, and seemed to me to be a superior class of people. At the same time I met many of the natives at St. Michael; and I was not as well impressed with them as I was with the natives from Unalakleet, because I found them not as well educated, and they did not exhibit the same independence in political matters as those from Unalakleet. Judge Koen is the United States commissioner at St. Michael and also assistant collector of customs, and he seemed to have a very pronounced influence over the natives at that place. Mr. Koen is a very partisan Democrat and was doing everything at that time that he could to vote the natives at St. Michael for my opponent, Mr. Sulzer; and, in the fall election, as in the preceding election, they voted almost unanimously for Mr. Sulzer. Their homes in St. Michael are very poor, shabbily built, in a little bunch, or crowded Esquimaux village, very dirty, and of very poor construction, and, in my judgment, it is about the poorest and most degraded Indian village along the coast. I have visited all of the native villages from Cape Prince of Wales to Bristol Bay and thence along the south shores of Alaska, except Unalakleet, and I think that that one at St. Michael is the worst. Certainly there is no comparison between the men that I saw from Unalakleet and those at St. Michael. Those at Unalakleet were well-dressed, clean, manly-looking well-educated fellows, in comparison with those at St. Michael.

In the taking of testimony in Alaska under the resolution 105 passed by the House of Representatives, I have had a great deal of difficulty to get the taking of depositions started, because when the resolution passed on July 28, I was in Washington City. It took me several days to go from Washington City to Seattle and a considerably greater length of time to get the papers from Seattle to the various points in Alaska where depositions had to be taken. Under the rule no depositions could be taken until the copies of pleadings could reach the point where the depositions were to be taken. As soon as I reached Seattle on August 2, I wrote a letter to one of my friends at Nome and forwarded the papers to him for the purpose of taking depositions in the Nome country. My letter to him was dated August 2, 1919, the resolution of the House of Representatives having been passed on July 28, only five days before. On August 2, I wrote the following letter:

SEATTLE, WASH., August 2, 1919.

M. W. GRIFFITH, Esq.,  
Nome, Alaska.

MY DEAR MR. GRIFFITH: Some time ago I sent you a printed copy of the notice of contest in the contest case, and I now send you Mr. Grigsby's answer thereto and also my reply, which makes out a case on the pleadings. I wish you would give these papers either to Mr. Cochran or to Judge Lomen at the time we get ready to take testimony of the witnesses. Just as soon as you get these papers telegraph me at Juneau, Alaska, and I will further advise you about the taking of the evidence of the witnesses.

That was on August 2. And on August 26, I received a telegram from Mr. Griffith as follows:

NOME, ALASKA, August 26, 1919.

Hon. JAMES WICKERSHAM,  
Juneau.

Letter and papers received to-day. Gang here certainly report that you were assaulted and badly injured while in Valdez for calling a witness a liar.

M. W. GRIFFITH.

Mr. Griffith was the individual named by me as my agent at Nome upon whom service might be had, and he would be authorized to take testimony for me in the second, or Nome, judicial district. Under the rule I was allowed 40 days for taking my examination in chief in the contest case in the Nome district, and the time began to run on the 28th of July. So that when the papers finally reached my agent at Nome I had no time left, except a few days, and was unable to give any notice for taking depositions in that division at all. I sent similar letters to Fairbanks, Alaska, and to Valdez, Alaska, and, while the time was shorter at each one of those places, more than one-half of my

time for taking depositions in the 40 days had transpired before my papers reached the place where the depositions could be taken.

Notice was served on my agent, J. L. Reed, at Valdez, Alaska, for taking depositions at Cordova, at a time when I was over at Seward, and owing to the failure of any boats to run at that time I could not reach Cordova to take the depositions. The firm of Donohue & Dimond, at Valdez, were Mr. Grigsby's agents and lawyers. Mr. Dimond being in Valdez and Mr. Donohue being in Cordova. I telegraphed to one of my acquaintances in Cordova and asked him to get an extension of time, so that I could reach there on the boat to take my testimony; but Mr. Donohue refused to extend the time, and took his depositions in my absence, under circumstances where I was unable to procure the attendance of an attorney. There was one attorney there, but Mr. Donohue procured him to act as notary public for taking the depositions, and also secured him as a witness against me, so that I had no person there to look after my affairs, except Mr. George Dooley, who is a first-class hotel keeper but not an attorney.

I make this explanation, because when George Walker went on the witness stand at Mr. Donohue's request, and testified that certain persons whose names I do not now have were not legal voters in that precinct, and had left the country subsequent to the date of election and could not be found, but that before leaving the country they had admitted to him that they voted for me (Wickersham) and that their votes were illegal. I was not present, and I have only learned of this evidence of Mr. Walker from statements made to me subsequently by Mr. Dooley, who was present. But I do know George Walker. Mr. Walker was a bar keeper in the red light district in Fairbanks, and in low-grade saloons in that vicinity, for a number of years. He has been occupying about the same relative positions in the saloons at Cordova, where he has been cleaning up the saloons, and doing work of that kind. He is married to a woman known as Marie, who is a dope fiend, and a woman of general unsavory reputation, although she is a far better character at that than Walker himself. Walker is a notorious character, and is utterly unworthy of belief in any court in the land. I have been unable to find any of those persons whom he spoke about, except Mrs. Spencer, who has been on the witness stand here, and who has testified that she did not tell Walker anything of that kind.

I am informed that one John Moe at Fairbanks gave very much similar testimony as Walkers, in that region, with respect to voters who were situated as those mentioned by Walker; that the voters were illegal voters according to Moe's testimony; had left the country, and could not be found; but before leaving the country they had all confided to him that they voted for the contestant in this case. Mr. Moe also was a saloon keeper, and for many years kept a low dive saloon inside the deadline in the restricted district in Fairbanks, and his testimony is about as valuable as George Walker's.

In his statement before the Committee on Elections of the House of Representatives, on July 12, 1919, Mr. Grigsby made a statement in which he criticized my political standing as a Republican; and he cited me as a witness in taking his depositions at Ketchikan, and asked me questions to show that I had been nominated by a Democratic convention in Alaska, and was not a good, simon-pure Republican.

I cast my first vote for Garfield in 1880, in Springfield, Ill., and I have been a Republican ever since. In 1883, I removed to Washington Territory, and was elected probate judge in 1884, in Pierce County, Wash., at Tacoma, and served two years, and was reelected in 1886; both times being nominated in a Republican convention, and elected as a Republican. Washington Territory was admitted into the Union in 1889, and in 1892 I voted for Harrison for President, and was the president myself of the Harrison Republican Club in Tacoma and Pierce County, and made a strong fight for the election of Gov. McGraw that year. In 1893 I assisted in the election of Ed S. Orr as mayor of Tacoma on the Republican ticket, and was appointed city attorney by him. In 1898 I was elected as a Republican to the Washington State Legislature and assisted very largely in the election of Senator Foster to the United States Senate. My services were so satisfactory to Senator Foster that in 1900 he persuaded President McKinley to appoint me United States district judge in Alaska as a Republican, and I have resided in Alaska ever since that time. In 1904 I was reappointed United States district judge, but on account of a fight started against me, growing out of the old Nome difficulties, I was not

confirmed, although I served until 1908. President Roosevelt gave special attention to my case, and reappointed me some six or eight times, as the confirmation would go over from one meeting of the Senate to the other without action.

The last time I talked to President Roosevelt, he put his hand on my shoulder and said to me, "Go on back to Alaska, and go ahead with your work. So long as I am President you shall be United States district judge in Alaska. But in the fall of 1907, I had grown tired of the situation, and resigned, and, upon sending in my resignation, I received a very nice letter from President Roosevelt, which I yet retain, expressing his regret at my action. After my resignation in the latter part of 1907, I continued to serve until the spring of 1908, as judge, when my resignation was finally accepted by the appointment of my successor. In 1908 I was a candidate for Delegate to Congress from Alaska. I was requested to become a candidate by my friends from all over the Territory, and finally did become a candidate, and made my own public announcement of that fact, and ran without having received the nomination of any convention in a formal way.

Political conventions in Alaska are never held with any possibility of fairness, either politically, or to the people of the Territory, for the following reason: The Territory is so large that it is impossible, owing to want of transportation in the Territory, for delegates to assemble at any point in the Territory under several weeks' traveling for many of them, and, for this and other reasons, no full and satisfactory convention has ever yet been held by either the Democrats or the Republicans in Alaska. For the delegates to go from Nome to Valdez, one of the most central points in the Territory, would necessitate their coming in the summer time after about the 15th of June, to the city of Seattle, about 2,200 miles, and thence traveling back up the coast to Valdez, about 1,400 miles farther. After the convention would be held, these delegates would all have to go back by the same route, or else go over to Skagway, and down the Yukon River, a couple of thousand miles, and it would require from a month to six weeks for them to make such a trip. The fact is that conventions are never held in Alaska for reasons of this kind. Politics in Alaska are somewhat mixed up. We have two factions in the Republican Party, and have always had, and two factions in the Democratic Party, and have always had, the differences in those factions arising very largely from the attempted control by one or two big interests in the Territory of our politics. When I ran for Delegate in 1908, two planks in my platform read as follows:

"13. I shall stand for the encouragement of all legitimate railroad construction in Alaska, the building of a trunk-line railroad from the coast to the interior under Government supervision, the strict Government control of transportation rates by rail or boat, and fair and not excessive rates for freight and passenger traffic.

"14. I shall oppose in every way possible the control of the transportation or mining business in Alaska by the Guggenheims or any other dangerous combination."

The Guggenheim-Morgan interests had then acquired a control over transportation, copper, and fisheries in Alaska, and had assumed to control the government of Alaska through its appointive officers. At the time of my candidacy, in 1908, the Copper River Railroad was being constructed by the Guggenheim interests, and on election day they stopped all work, loaded their men onto construction trains, and run them into Cordova and other stations along the road and voted them. They voted more than 800 illegal votes against me at that time along the line of their road, and from that date to this that interest, which now controls the Kennicott Copper Corporation and the Copper River Railroad and the Alaska Steamship Co., has fought me at every election and has supported my opponents at every election and, with their powerful interests, they have managed to control many of the appointive offices in Alaska.

The governor, surveyor general, secretary of the Territory, treasurer, and the collector of customs, the judges and the clerk, and the marshals, and all that class of officials in the Territory of Alaska are appointed. The people of Alaska only elect the Delegate to Congress, the attorney general, and the members of the legislature. All other officials in the Territory are appointed.

For the reasons stated it has always been impossible to hold a convention in the Territory of Alaska which would afford the people of the Territory any opportunity to express their wishes in the matter of the nomination of a Delegate or any other office.

In 1908, when I first ran, the Republican organization consisted of one man, who undertook to make the nomination through a fraudulent convention, where the delegates were not present, but all of which were controlled by him and a few of his local friends, by securing fraudulent proxies by telegraph from all over the Territory. Where the proxies could not be had by telegraph they manufactured them. And that has been the favorite and about the only method of holding a convention either by the Republicans or the Democrats in Alaska. So that, when I ran in 1908, I ran at the request of the Republicans throughout the Territory, and was elected. In 1910 the same general situation prevailed, although I was nominated on June 30, 1910, by a Republican convention, which met in the city of Juneau, the capital city of the Territory. My opponent at that time was Mr. Ed. S. Orr, under whom I had served as city attorney in the city of Tacoma in former years. Mr. Orr was supported by the big interests that I have mentioned, who furnished his campaign funds and his supporters, and I defeated him, each of us having been nominated in a factional Republican convention. In 1912 I was nominated at a convention which met in Valdez, and it was called the Republican Territorial convention and declared for those progressive measures which Mr. Roosevelt represented. I ran as a Progressive Republican and was elected as such, and on August 16, 1912, the elections at that time being held in August, I received the following telegram from Col. Roosevelt:

NEW YORK, August 16, 1912.

Hon. JAMES WICKERSHAM,  
*House of Representatives, Washington, D. C.:*

I congratulate you and the Alaska Progressives, and am greatly pleased at the result.

THEODORE ROOSEVELT.

I had not gone home from Washington in 1912, at the time of the election, being detained there by my duties in the House of Representatives.

I also received the following telegram from the chairman of the national Progressive committee:

NEW YORK, August 14, 1912.

Hon. JAMES WICKERSHAM,  
*House of Representatives, Washington, D. C.:*

My heartiest congratulations on your distinguished honor of being the first Progressive Congressman elected in the first election held since organization of the Progressive Party. Watch New York Times to-morrow morning for story regarding this.

JOS. M. DIXON,  
*Chairman National Progressive Committee.*

And in the New York Times the next day was quite a statement made by Senator Dixon with respect to the fact that I had the honor of being the first Republican Progressive to be elected under the Roosevelt banner.

In 1914 the Republican boss in Alaska declined to hold a Republican convention, and declined to permit me and my friends to have the benefit of the organization calling for a Republican convention, and none was made. It was impossible to secure a call, because he knew that I would be nominated in that convention, and he did not want that done. So there was no Republican convention called by the national Republican committeeman from Alaska. And again, on June 4, 1914, I issued an address to the people of Alaska, and ran as a Roosevelt Progressive Republican.

The Democratic Party in Alaska was split up in the same way the Republican Party was. There was a reactionary crowd under the general management of big corporations attempting to control the great resources of the Territory of Alaska, and there was the Independent Democratic element, which desired to stand aloof from this control. A number of these Progressives met in Valdez on July 30, more than a month after I had made my public announcement of my candidacy as a Progressive, and indorsed me as a candidate for the office of Delegate from Alaska. I file herewith, and ask to have made a part of my testimony, a copy of the Progressive Democratic platform, and resolutions adopted at the Valdez convention, held on July 30, 1914, and to call attention to the first statement in it, as follows: "The Progressive Democratic Party of the Territory of Alaska enunciates its princi-



ples and indorses the Progressive Alaskan policy of Delegate Wickersham as made in his announcement." This refers to my independent announcement of June 4, almost two months previous to the date of this indorsement by the Progressive Democratic convention at Valdez. I was not asked by the members of the Progressive Democratic convention to accept their indorsement, and never made any public announcement of my acceptance of their indorsement, although I appreciated it at the time, and do now, as a recognition of the efforts that I had been making for the Territory, and an indorsement of that effort. The officers of that convention never gave me any special notice of that indorsement, and I never made any public announcement of my acceptance of their indorsement in any way.

Their convention at Valdez was very much like all the other conventions that are held in Alaska, as one will readily understand by the fact that but one delegate attended from southeastern Alaska, from the Juneau, Ketchikan, Sitka, Skagway region. This single delegate from southeastern Alaska was a man by the name of Ed. S. Austin. There were no delegates from the Fairbanks division, and none from Nome, except possibly some sent telegrams advising some of his friends to represent him as a delegate from those districts. In short, it was the usual convention made up from a few men around Valdez and a single man from southeastern Alaska. It represented very largely the same situation as the three tailors in Tooley Street, who declared that, "We, the people of England, resolve," etc.

This progressive Democratic platform lauded President Wilson very highly, and also Senator Chamberlain, and gave me a special notice for the performance of my duties as a delegate from Alaska, and gave me their indorsement. I have read their platform over with very great care, and I find nothing in it which I could not have indorsed at that time, if I had so determined, and nothing in it which I could not indorse now. The planks in the platform all relate to local matters, and are very proper, and I find nothing objectionable in them, nor do I have anything to criticize in the indorsement of President Wilson, and Senator Chamberlain, by that convention, although I had no part in it.

The Alaska Railroad bill had passed Congress in March, 1914. I had labored hard for such a bill from 1908 and I drew the Alaska Railroad bill, and introduced it in Congress on the very first day of the special session preceding the date of its passage, and worked for it very industriously. Other gentlemen came on to Washington, and assisted in the presentation of the matter, and we were all, Republicans and Democrats alike, very pleased when President Wilson finally decided in favor of it, and assisted in its passage. And in 1914, I felt very friendly to President Wilson, and I still feel that way, because he assisted us in securing the passage of this railroad bill; but I never indorsed President Wilson's political views as a Democrat, and I have never indorsed any other Democratic platform. I had nothing whatever to do with the preparation of the platform of the Progressive Democratic convention at Valdez in 1914. I paid no part of the expense of holding the convention, or of any of its delegates. I was not consulted with respect to it in any way. And the only interest that I had in it was that it indorsed my actions as delegate from Alaska in the matter of the railroad, and other work, at which I was very greatly pleased.

Mr. Ed Austin seems to have been the sole delegate from southeastern Alaska to that convention, and probably because of that fact he was elected chairman of the convention. Mr. Grigsby put Mr. Austin on the stand at Ketchikan, and Mr. Austin testified in my presence that I had said to him personally, during a walk upon which he invited me, up some side road in Ketchikan at that time, that I was a Woodrow Wilson Democrat—and they think that is important in this contest. I never said anything of the kind to Ed S. Austin, or to anybody else then, or at any other time. Although at that time I was very greatly pleased with President Wilson's attitude on Alaskan matters, and felt very kindly toward him, and said so frequently to everybody, and do yet. He helped us get our Alaskan Railroad legislation through, and promised us help on other matters which have not yet materialized, when we were unable to get it through from other quarters. And we were very much pleased at his actions in that matter as a Democratic President. But at no time, either to Mr. Austin, or anybody else, did I say that I was a Woodrow Wilson Democrat, or did I ever indorse the principles of the Democratic Party.

Mr. Charles E. Bunnell was nominated in 1914 for Delegate in the Democratic convention held at Skagway, Alaska, on August 5, 1914. Mr. Bunnell had been a long resident of the Territory of Alaska, and the Democratic or-



ganization of the Territory called a convention which nominated him, and he accepted the nomination as a Democrat, and ran against me as a Democrat, and I defeated him. As a part of the fight, there was published throughout the Territory a telegram from President Wilson, as follows:

THE WHITE HOUSE.  
Washington, D. C., October 30, 1914.

CHARLES E. BUNNELL,  
Juneau, Alaska:

May I not, upon the eve of election, send you my greetings and express my earnest hope that you will be sent to my support by the people of your Territory?

WOODROW WILSON.

So, not only I was not a Democrat at that time, but I was opposed by a Democrat who had the personal indorsement of President Wilson, and in the November election, 1914, I defeated him by a considerable majority. I file herewith and ask to have made a part of this record a copy of a document issued by the Democratic organization in Alaska, containing this telegram from President Wilson, and containing an appeal to the people of Alaska to vote for Mr. Bunnell because he was a Democrat, and against me because I was a Republican, and asserting that "Pinchot and Wickersham stand for conservation, stagnation, and hard times," and also that "Wilson and Bunnell stand for development, opportunity, and prosperity."

After the election of 1914 my Democratic opponent, Charles E. Bunnell, was appointed United States district judge by President Wilson, and is serving as judge at this time under that appointment.

So, it is not true that in 1914, or at any other time that I ran on a Democratic platform for Delegate to Congress, or that I ever indorsed a Democratic platform; but the truth is that I was indorsed by this little bunch of enthusiastic Democrats who seem to have fallen out with the main body of their party.

I have never known why Mr. Ed. S. Austin spent so much good money in going to the Valdez convention in 1914. He certainly didn't get anything from me. I didn't pay any part of his expenses, and had nothing to do with his going to that convention, and his statements in respect to my having indorsed President Wilson are false. Mr. Austin is another barkeeper. He has been a barkeeper along the water front in Ketchikan for a good many years. And, aside from the fact that he held some appointment under the road work in Alaska, that has been his occupation for all the years I have known him.

(Contestant's Exhibit D-1 attached hereto.)

I also introduce a copy of the Progressive Democratic platform and resolutions of July 30, 1914, and ask that they be attached to my evidence and made a part thereof.

(Copy of platform referred to marked "Contestant's Exhibit E," and is hereto attached.)

I also introduce in evidence, and ask to have marked "Contestant's Exhibit F," the original copy of the telegram received from President Roosevelt and Chairman Dixon, of the National Progressive Committee.

(Telegrams referred to marked "Contestant's Exhibit F," and are hereto attached.)

In 1916 the Republican organization, under the Republican national committeemen in Alaska called a convention to meet in Seward, Alaska, for the nomination of a Delegate to Congress. I was notified in advance that I would not be nominated at that convention without I would agree to turn over to the national committeeman and to his district committees all the power or influence which a Delegate might have from the Territory of Alaska in the case of the election of Gov. Hughes as President of the United States. After having received such a notification, I issued an address to the people of Alaska, which I file herewith and ask to have marked "Exhibit G."

(Address referred to marked "Contestant's Exhibit G," and is hereto attached.)

On page 6 of this address is a statement issued by me to the delegates to the Republican Territorial convention at Seward, under date of March 30, in which I called attention to the demand that had been made upon me to surrender my freedom as a delegate from Alaska, and I announced to them that I would not do it. When the convention met later on, I received telegrams from some of my friends, advising me that I would not receive nomination without I made some arrangement with the Republican national committeeman

from Alaska. And, upon inquiry, they forwarded me copies of two of the planks which they proposed to put in the platform at that convention, as follows:

SEWARD, ALASKA, *April 18, 1916.*

HON. JAMES WICKERSHAM,

*Delegate to Congress, Washington, D. C.:*

As suggested in your recent open letter of March 30, we wire you under separate night letter copy blank which Russell, chairman platform committee, will insert convention platform affecting patronage. Urge you to wire Russell immediately your acceptance platform with this plank. Agreed caucus majority delegates, Wickersham for Delegate; Murane, national committeeman; Schofield, attorney general; Shackelford, Gilmore, delegates Chicago; Russell, Gaustad, alternates. Platform covers every item mentioned in your open letter. This is the best deal we can secure, and have personal pledge every regular Republican attending convention will not only support ticket, but organize legislative tickets every division, carry on aggressive and earnest campaign. We realize we must have your acceptance to this plan to insure your nomination. Rush answer.

ED C. RUSSELL.  
H. THISTED.

Another telegram accompanied the former containing the plank I must agree to as follows:

SEWARD, ALASKA, *April 18, 1916.*

JAMES WICKERSHAM,

*Delegate to Congress, Washington, D. C.:*

We charge the Democratic administration with having ignored Alaskans in appointments to public office in this Territory and with having disgraced our citizenship by the wholesale appointment of nonresidents and carpetbaggers in lieu of bona fide citizens and we condemn this un-American policy and practice as highly prejudicial to our people and detrimental to good government. We reaffirm our party slogan, Alaska for Alaskans, and demand that only bona fide citizens be appointed to public office. We believe that harmonious party organization and solidarity are basic principles controlling good government and to the end that our citizen voters shall have a voice in appointments to public office we pledge to the people of Alaska that all divisional appointments to public office shall be made only upon the joint indorsement of the Republican committee of that division and the Republican national committeeman, and all other Presidential appointments to public office in Alaska shall be made only upon the recommendation of the Republican national committeeman of this Territory.

ED C. RUSSELL.  
H. THISTED.

Upon receiving this notification and telegram, I placed the matter before Hon. Frank P. Woods, chairman of the Republican congressional committee in Washington, and consulted very fully with him about it. He agreed with me that I ought not to accept the nomination upon any such insulting basis; and, upon August 2, 1916, I sent the parties interested a telegram from Washington, D. C., declining to accept a nomination from their hands upon any such basis. I wound up my statement in that telegram as follows:

"I shall support Hughes and Fairbanks, and their national platform, and be a candidate for Delegate to Congress from Alaska on the petition of her citizens free from corrupt boss rule, and I shall be glad to have the indorsement of the Juneau convention on that basis. If I am defeated on this platform, I shall at least have preserved my own self-respect.

"JAMES WICKERSHAM."

Prior to 1915, the people of the Territory of Alaska had become very much aroused over the method adopted by the Republican national committeemen in Alaska, in running our local politics, and, when the Territorial legislature of 1915 met, it passed a law authorizing the nomination of candidates in the Territory by petition, providing that a delegate might be nominated by a petition of 250 voters in the Territory. Under that law, my friends throughout the Territory had nominated me for Delegate in 1916, by petition; but I was also

nominated by a divisional convention at Valdez, Alaska, on July 17, 1916, and was indorsed by the Republican clubs generally throughout the Territory. The Republican national committeeman made no nomination for a Delegate in 1916; and he and a few friends whom he could muster did everything they could to secure the election of the Democratic candidate, Mr. Sulzer. In 1916 the Democrats held a Democratic convention and nominated Charles A. Sulzer, as a candidate for Delegate against me; and again, in 1916, as he did in 1914, President Wilson issued a call to the unterrified democracy of Alaska to come to the rescue of the Democratic candidate, as follows:

EXECUTIVE OFFICE,  
Asbury Park, N. J., September 15, 1919.

Hon. T. J. DONOHUE,

*Democratic National Committeeman, Valdez, Alaska:*

In reply to your telegram of recent date, would say that I very earnestly favor the election of Charles A. Sulzer as Delegate to Congress from Alaska.

WOODROW WILSON.

Not only did Mr. Sulzer have the very efficient support of President Wilson, but also of every appointive officer in the Territory of Alaska, and as well the support of the Republican national committeeman, and a few other so-called Republicans, who gathered their sustenance around the treasury of some of the big corporations in Alaska, like the Kennicott Copper Corporation, and the Alaska Gastineau Mining Co. Notwithstanding this situation, I was elected in 1916, as I had been before.

I file herewith a copy of the document issued by the Democratic party in 1916, with Mr. Sulzer's photograph on it, under which is a copy of the telegram from President Wilson asking the Democrats to give him their support in the Territory.

(Document referred to marked "Contestant's Exhibit H," and hereto attached.)

The Territorial legislature in Alaska in 1917 passed another act in relation to nominations for office in the Territory and provided for a primary election law. In 1918 I was a candidate for nomination under this law, and was unanimously nominated by the Republicans of Alaska as the Republican candidate for Delegate to Congress. I had no opposition for that nomination, and if I had been as unanimously supported by the organization men as I was by the people, I would have been elected by a large majority. Owing to a split in the Republican Party in Alaska, a considerable number of men, like the Republican national committeeman, supported the Democratic ticket, as usual, and, with the powerful influences of the big transportation corporations, made it a very close election again, and the present contest arises out of that fact.

At this time I want to introduce the testimony of Mr. Calhoun given in the former contest between Mr. Sulzer and myself over the election of 1916. Mr. Calhoun was interrogated in the depositions in that case, with respect to the character of the Indians on the Klawock Indian Reservation, and it is his testimony with respect to that that I wish to introduce as evidence in this case. Subsequent to that time, and prior to any opportunity I have had to take his testimony, Mr. Calhoun was shot by one of the Klawock Indians, and killed; so that it has been impossible to take his testimony.

Mr. LEEHEY. This, I presume, will go in under any proper objection which might be raised, with which I am not sufficiently familiar to specify in such objection at this time.

WITNESS. I want to call attention also of the committee to the method employed by Mr. Grigsby and his attorney in taking the deposition of some of the voters at Ketchikan, and particularly of a man by the name of George Johnson, whom they persistently called "Chief Johnson." A good many of the native people, and especially of the older ones, do not talk English as fluently as the younger men, and George Johnson is rather an aged man, and Mr. Grigsby and his attorney did everything they could to annoy and harass him and keep him from telling his story to the stenographer in the right way. They muddled his testimony purposely. And the stenographer unfairly, and without any excuse for it, assisted them in doing that. For instance, George Johnson had a brother who years ago was quite a prominent man in that neighborhood, and was taken to Washington City for some purpose connected with the affairs of his people, and upon his return he was called "George Washington"; and

they muddled his testimony in that respect very much, as they did in many others, and made fun of him, and acted in a very discourteous and improper way in the taking of his testimony. And I particularly feel that the stenographer himself was guilty of being a party to this unfair method of taking testimony.

Cross-examination by Mr. LEEHEY:

Q. You say that you visited most of the Indian settlements along the Nome coast?—A. Yes, sir.

Q. But did not visit Unalakleet?—A. I did not.

Q. That is where you got your big vote?—A. That is where I got whatever vote they gave there, and maybe for the reason that I had not visited them.

JAMES WICKERSHAM.

Subscribed and sworn to before me this 31st day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,  
Notary Public in and for the State of Washington,  
Residing at Seattle.

STATE OF WASHINGTON,  
County of King, ss:

I, Dwight D. Hartman, notary public in and for the State of Washington, residing at Seattle, in said county and State; do hereby certify that the above and foregoing depositions were taken before me at my office, No. 300 Burke Building, in the city of Seattle, King County, Wash., on the 25th day of October, 1919, at 10 a. m. of said day, pursuant to the notice hereto annexed; that the said depositions were taken down in shorthand by A. D. Williams, reduced to writing by him, and thereafter read over by the witnesses, respectively, and their said depositions subscribed by them in my presence; that before the taking of said depositions each of the said witnesses was by me first duly sworn to testify to the truth; the whole truth, and nothing but the truth; that neither A. D. Williams or myself have any interest in the result of this contest.

In witness whereof I have hereunto set my hand and notarial seal this 31st day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,  
Notary Public in and for the State of Washington, residing at Seattle.

#### CONTESTANT' EXHIBIT A.

SEATTLE, WASH., August 22, 1919.

I, the undersigned, a member of the Second Service Company, Signal Corps, United States Army, formerly stationed at Nulato, Alaska, do solemnly swear that at the election in November, 1918, I cast my vote for Hon. William A. Sulzer, candidate for Territorial delegate to Congress from Alaska.

That to my best knowledge and belief at that time, I had a legal right to do so, having been in Alaska one year and in the precinct six months.

HORACE R. MORGAN.

STATE OF WASHINGTON,  
County of King, ss:

Subscribed and sworn to before me this 22d day of August, 1919.

[SEAL.]

ALBERT L. EWING,  
Notary Public in and for the State of Washington, residing in Seattle.

#### CONTESTANT'S EXHIBIT B.

CORDOVA, April 22, 1918.

R. BLIX, Copper Center:

Saw Donohoe; says Sulzer has never gotten any support to speak of at your place, but promised to make the change provided you will get good vote for Sulzer at primary. Morrissey is going down on same boat with me. If you make good showing, change will be made.

L. T. ERWIN.

## CONTESTANT'S EXHIBIT C.

MAY 2, 1918.

CHAS. A. SULZER,  
*Care of House of Representatives,*  
*Washington, D. C.*

Primaries here gave you 17. Malony none, Wickersham 1. The consideration as promised by Donohue and Erwin on April 22 McCray's name to be withdrawn as postmaster here and that of Dittman recommended and that postoffice be kept where it is at present. On April 20 petition was circulated signed by all patrons of postoffice protesting against McCrary as postmaster and moving of office to his farm half mile north of here.

Petitions, plats, other papers was mailed to Erwin, care Department Justice. Upon his and Morrissy's arrival there they will fully explain matters. On receipt of this please call on First Assistant Postmaster General to defer issuing commission to McCrary till Erwin's arrival. As soon as matters has been settled in accordance to petition and wishes of the patrons of the postoffice here wire me fully the results.

R. BLIX, *Postmaster.*

## CONTESTANT'S EXHIBIT D-1.

A VOTE FOR WICKERSHAM IS A SLAP AT WILSON.

[Signal Corps, United States Army. Telegram. Received at 36 S. I. G. W. 31.]

THE WHITE HOUSE,  
*Washington, D. C., October 30, 1914.*

CHARLES E. BUNNELL,  
*Juneau, Alaska:*

May I not, upon the eve of election, send you my greetings and express my earnest hope that you will be sent to my support by the people of your Territory?

WOODROW WILSON.

5.05 p. m.

The question is not "Are you a Democrat or a Republican?" but "Are you an Alaskan?"

For the first time in history the administration at Washington has gone to the front for Alaska.

Wilson and Lane are building railroads to furnish cheap transportation and are securing the passage of laws to permit the location of mineral, coal and agricultural lands and are doing away with the forest reserves which levy a tax on each Alaskan. If allowed to carry out this program they will give the miner, prospector and pioneer a chance to make a stake and become an independent, prosperous citizen. If Alaskans favor the President's plan they should lend it their support by voting for Charles E. Bunnell, regardless of politics. If you vote for Wickersham, you simply tell the President in so many words that you do not favor his policies and that you favor the system of conservation and land withdrawal which deprives the miner and prospector of the reward of his labors and the pioneer of his opportunity.

Pinchot and Wickersham stand for conservation, stagnation, and hard times. Wilson and Bunnell stand for development, opportunity, and prosperity.

Take your choice.

## CONTESTANT'S EXHIBIT D-2.

WASHINGTON, D. C., *May 13-14, 1918.*

R. BLIX, *Copper Center:*

Delegate Sulzer has arranged everything to the satisfaction of the patrons of post office. Dittman appointed as requested in petition. Let me beg you to show Sulzer your appreciation by doing as well for him in November as you did in April. Say nothing until Dittman gets his commission.

L. T. ERWIN.



## CONTESTANT'S EXHIBIT E.

## THE PROGRESSIVE DEMOCRATIC PLATFORM AND RESOLUTIONS ADOPTED AT THE VALDEZ CONVENTION HELD ON JULY 30, 1914.

The Progressive Democratic Party of the Territory of Alaska enunciates its principles and indorses the progressive Alaskan policy of Delegate Wickersham as made in his announcement.

*Fisheries.*—We favor the protection of the fisheries of Alaska so that there may be the greatest output and development consistent with a certain continuation of the supply; and we also favor such amendments of the law as will encourage, build up and perpetuate a permanent fishing population in Alaska.

*Alien labor.*—There is no one thing that works a more direct hardship upon the bona fide residents of Alaska, those who labor as well as those who come here to make this their home and engage in the various industries than the importation of foreign labor employed in the canneries and other branches of the fishing industry, and we ask that the laws enacted for the prevention of this practice on the part of the operators of the canneries be strictly enforced, and if such laws as are already in force for this purpose be not adequate that others be immediately enacted.

*Roads.*—We favor the building by the Government of great trunk wagon roads and trails to and throughout the interior with feeders to the various mining districts. To this end we ask for an appropriation by Congress of at least \$1,000,000 per annum.

*Coal lands.*—Alaska contains thousands of acres of high-grade coal land. This coal is much needed for the Federal Navy on the Pacific, for the development of the rich and varied resources of Alaska, and for general use in the States, as well as in Alaska; we urge that all valid entries of Alaska coal lands should proceed to patent as expeditiously as possible; we are in favor of any practical method which will open the coal fields immediately, asking only that this great resource of Alaska be kept under such governmental supervision as will protect the people against trusts and monopolies. We believe that the construction and operation of the railroad by the Government to the Matanuska and other known coal deposits will bring about the most satisfactory solution of this all-important question and thus give homes and employment to hundreds of thousands of prosperous people.

*Conservation.*—We favor conservation against waste of any of the natural resources of Alaska by a privileged few for their own benefit, but do not favor conservation of the uses of any resources of Alaska. We are unalterably opposed to the exploiting of Alaska by those who cry aloud "develop Alaska," but who do not make it specific that such development is for the benefit of the people of Alaska and not for a favored few who are not content to make Alaska their home.

*Primary elections.*—We favor the passage of a law granting the people of Alaska the right of the direct primary elections, also a law requiring elections to be held under the Australian ballot system, to the end that machine politics may be eliminated from the Territory.

*Asylum for insane.*—We favor the governmental establishment in Alaska of an asylum for the insane, not only that an enormous expense of transportation and costs of alleged "guards" to asylums thousands of miles distant in the States may be saved, but that the patients, many of whom are only temporarily suffering from exhaustion, may avoid the long, strenuous sea voyage, before receiving that immediate medical treatment and quietude that such cases require.

*Home government.*—We declare that the time has come when the people of Alaska are entitled to absolute home government, and we demand of the Congress of the United States that the people of Alaska be given home rule in its fullest sense, and to this end we declare ourselves in favor of the initiative, the referendum and recall.

[Photograph. Underneath appears the following:]

There is no other man in the Territory who is in as good position to help Alaska in Congress as is Mr. Wickersham. For that reason the Democrats would have no chance to replace him with any other man, and his becoming a Democrat gives that party in Alaska its only chance to elect a Delegate to Congress.—Fairbanks Citizen, Mar. 9, 1914.

*Eight-hour law.*—We favor the enactment of a law by Congress for Alaska establishing an eight-hour day for all the miners or others working under ground or in smelter or reduction works. This law to be passed as a sanitary measure.

*Night cable service.*—We also urge that the military cable offices in Alaska be kept open 24 hours each day for the purpose of aiding navigation.

*Elected, not appointed.*—We ask that the Territorial act providing for the appointment of a Territorial treasurer and mine inspector by the Governor be so amended that such officers be elected by the people, in accordance with the principles of progressive democracy.

We insist that reforms be made in the methods of the selection of jurors.

We favor loans of money by the Government to bona fide settlers on homesteads for improvements to be made thereon.

The following special resolutions were also passed:

*President Wilson.*—That we indorse the administration of President Wilson and hereby express our extreme gratitude for his interest in the enactment of legislation for the relief of Alaska, and our appreciation of his valuable assistance to our Delegate in his faithful work for Alaska's best interests.

We love Woodrow Wilson for the enemies he has made. He is a man who in leadership is a Joshua, in statesmanship a Jefferson, in wisdom a Franklin, in courage a Jackson, and in patriotism a Washington; a man whose mind is a mirror that reflects the possibilities of the future as well as the promises of the present or the prophecies of the past; a man whose judgment is as unerring as the mariner's compass, and whose purposes are as constant as the northern star. We admire him for the attentive ear he has given to our Representative in Congress and for his manly and successful effort in inducing Congress to come to our relief while we were wallowing in the slough of despondency into which his predecessor had plunged us.

*Delegate Wickersham.*—We point with admiration and gratification to the record made by our Delegate in Congress, and heartily indorse his fearless efforts as a champion of the people of Alaska. He has thwarted the exploiters of Alaska for private gain, and, while having been successful in retaining the wonderfully rich natural resources of the Territory as a heritage of the people, he has, in the face of enemies abroad and the emissaries of special privilege at home, secured from the administration now in power an abundance of capital for the development of her enormous latent wealth. But the villains still pursue us. The river of doubt is not yet crossed, and we, here and now, assure him that it is not our intention to change horses in the middle of the stream, but to stand firmly by him until the harbor of safety, where pirate ships can not enter, is finally reached.

*Senator Chamberlain.*—

Whereas Senator George Chamberlain, of Oregon, has been a loyal friend of Alaska, and stood behind our Delegate throughout his long fight for Alaska's railroad measure; and,

Whereas he has given to him every possible assistance in every effort he has made to get good legislation for the development of Alaska; and

Whereas he has had the confidence of the President and Secretary Lane, and has at all times acted for them and with them in Alaska legislation, and at all times a staunch Progressive Democrat; Therefore, be it

*Resolved.* That this convention extends to Senator Chamberlain the earnest wish for his return to the United States Senate in the election next November, and that we urge all good Alaskans to use their most earnest endeavor to impress upon the people of the great State of Oregon the importance to us as well as to them that he be reelected by a rousing majority.

#### CONTESTANT'S EXHIBIT F.

NEW YORK, N. Y., August 16, 1912.

HON. JAMES WICKERSHAM,

*House of Representatives, Washington, D. C.:*

I congratulate you and the Alaska progressives and am greatly pleased at the result.

THEODORE ROOSEVELT.

NEW YORK, N. Y., August 14, 1912.

Hon. JAS. WICKERSHAM,  
*House of Representatives, Washington, D. C.:*

My heartiest congratulations on your distinguished honor of being the first progressive Congressman elected in the first election held since organization of the Progressive Party. Watch New York Times to-morrow morning for story regarding this.

JOS. M. DIXON,  
*Chairman National Progressive Committee.*

WASHINGTON, D. C., August 15, 1912.

Hon. JOSEPH M. DIXON,  
*Chairman National Progressive Committee,  
Manhattan Hotel, New York City:*

I thank you for your congratulations. The Alaska Territorial progressive convention May 29 instructed national delegates for Roosevelt by unanimous vote. Delegates steam rolled at first Chicago convention, but carried out their instructions August 5. Convention May 29 nominated me for Delegate on progressive platform and on Tuesday I was reelected by landslide victory. First progressive elected to Congress after the formal organization of the national party; also third term; also first Member Sixty-third Congress. It is the beginning of victory in November. Hon. Emery Valentine, Juneau, Alaska, head of progressive movement in Territory.

CONTESTANT'S EXHIBIT G.

[Photograph.]

ADDRESS TO THE PEOPLE OF ALASKA.

More than 250 qualified electors in the Fairbanks district, where I reside, have signed and filed with the proper official a petition in accordance with the law, for my nomination as a candidate for Delegate to Congress, from Alaska.

Having concluded to yield to general demand from Alaskans to make the race I hereby announce the principles and purposes for which I shall stand in case of my election. I shall stand for:

1. The lawful control of transportation rates to, from, and in Alaska, and the reduction of present extortionate rates to reasonable standards; the prevention of rebates to favored shippers and of unlawful combinations in restraint of trade.

2. The enforcement of the Interstate Commerce and antitrust laws in Alaskan trade, commerce, and transportation.

3. The prompt completion of the Government railroad from Seward to Fairbanks, via the Matanuska and Nenana coal fields, and into the Iditarod; the extension of the system of public roads and trails and Government telegraph lines to all parts of the Territory.

4. The passage of laws by Congress for the extension of the powers of the Alaska Legislature over fisheries and fur-bearing animals, and the enactment of such laws as will save the fisheries from destruction and encourage the settlement of a population of fishermen along our coasts; the enactment of such laws as will require those engaged in Alaskan fisheries to pay their just proportion of taxes for the development of Alaska and her government.

5. The enactment of laws by Congress extending the powers of our legislature so as to permit the full development of an American type of Territorial Government in Alaska, with power to enable her citizens to protect their own and the public interests, and to increase the general prosperity without limit.

6. Statehood for Alaska as soon as it can be organized in the interest and to the advantage of the people.

7. The prevention of further extension and the repeal of the present bureaucratic form of government in Alaska, whereby bureau clerks in Washington really govern her people by the issuance of "rules and regulations" having the force of laws.

8. The abandonment of the present useless and harmful forest and other reservations in Alaska, whereby great bodies of our lands are withdrawn from settlement and use by the people and form a basis of bureau control from Washington without rational excuse and to the great loss of the National Treasury.

9. Opposition to the levy of any tax on trade or business in Alaska by Congress, and the repeal of the law now providing for such system, and the control of all taxation in Alaska by the Territorial legislature.

10. The centralized control of all national administration activities in Alaska by a national administrative body, to the end that there may be one business head to such work instead of twenty or more.

11. The appointment of Alaska Alaskans, and none other, to appointive offices in Alaska; and I utterly repudiate that plank in the Seward platform seeking to take away from the people of Alaska their right to be consulted in the consideration of such appointments, and to give the sole power of naming such officials to a Seattle lawyer; it is un-American, un-republican, and the beginning of boss rule in Alaska by the great corporations able to employ the lawyer; I pledge the people of Alaska that if I am elected I will not recommend any man for an appointive office in Alaska who is not first approved by the people of the Territory, and by those residing in the vicinity where he is to serve.

12. The enactment of primary election laws for the purpose of enabling the people by their votes to control their conventions and the nomination of their officials without the corrupt manipulation of political bosses.

13. Continued opposition to the efforts of interested copper companies to secure the passage of a bill in Congress for the appointment of a commission to revise the United States mineral land laws in Alaska; their purpose is to take away from the Territorial Legislature of Alaska its power to alter, amend, or revise such laws in Alaska, and to disapprove and repeal all such laws heretofore passed by our legislature and rob it of all power to legislate hereafter on that subject in Alaska. It is a scheme to extend to all mineral lands in Alaska the principle of reservation and leasing by a Government bureau in Washington, after the plan of the Alaska coal-leasing law, which was drawn by Secretary Lane, approved by Mr. Gifford Pinchot, introduced by Congressman Ferris of Oklahoma, passed by a democratic Congress, and signed by President Wilson. I shall oppose such reservation and leasing of placer and quartz mineral lands in Alaska, and favor the revision of such laws, when necessary, only by Congress or by the Alaska Legislature.

14. Finally, I shall support Hughes and Fairbanks, and the national Republican platform, unless they or those representing them shall interfere with the passage of needful and beneficial laws for Alaska, in which event I shall stand by Alaska and her interests, as I always have done, without regard to party threat or favor.

#### STATEMENT.

To the end that the people of Alaska may know the facts touching the refusal of those in charge of the Seward convention to indorse my candidacy for Delegate to Congress the following correspondence is made public:

JUNEAU, ALASKA, *January 10, 1916.*

HON. JAMES WICKERSHAM,  
*Washington, D. C.*

DEAR JUDGE: Following a conversation with Mr. Louis P. Shackleford, regarding the political situation in Alaska, I feel that the time has arrived for an amalgamation of the factions in the party.

Mr. Shackleford informs me that he realizes if the party is to have strength before the voters, the candidates for office should not be hand picked, but represent the rank and file of the party. Therefore, he feels that if arrangements can be made so that the Republicans of the first division can be free to regulate their own affairs, he sees no objection to your nomination as Delegate by the Republican convention.

Personally, I feel as if there could be a working agreement arrived at for the first division, which would protect both the Wickersham and Shackleford factions under one banner.

I promised Mr. Shackleford that if I could secure your consent, I would make a trip with him to Seattle in February to confer with you there. It appears Charles Herron has been trying to play both ends against the middle, and the time appears right for a line-up which will control the Republican policies in Alaska.

Kindly wire me if you will attend the Seattle conference and your preference for date, and after conferring with Mr. Shackleford, I will wire you concerning meeting you there.

With kindest regards, I remain,  
Yours, very truly,

ED. C. RUSSELL.

My answer was a telegram as follows:

WASHINGTON, D. C., *January 19, 1916.*

ED. C. RUSSELL, *Juneau, Alaska:*

Impossible leave Washington for meeting Seattle suggested in letter 10th.

JAMES WICKERSHAM.

Thereafter the Seattle papers published statements and interviews from Mr. C. D. Murane and Mr. William A. Gilmore, two prominent Seattle attorneys claiming to hold a block of proxies to the Seward convention, saying that I would not be considered as a candidate by that convention without I agreed to surrender all power of recommendation in appointments to Alaskan offices, in case of national Republican success, to them and their friends; similar statements from Alaskan sources were said to be made by Mr. Shackelford. To prevent any misunderstanding on that question at the Seward convention I addressed the following open letter to the delegates to the Seward convention, and forwarded the same to Alaskan newspapers for publication in advance of that meeting:

WASHINGTON, D. C., *March 30, 1916.*

*To the delegates to the Republican Territorial Convention, Seward, Alaska.*

GENTLEMEN: The people of Alaska seem to have concluded that there ought to be an effective organization of the Republican as well as the Democratic party in the Territory, and many of my most active friends and supporters have joined in the movement and are among your number. In view of their announced intention to present my name to your convention and because of many rumors tending to create misunderstanding and contention hereafter I feel impelled in fairness to my friends and to those who have long been my political opponents to make this public statement in advance of any action on your part.

I have not and will not enter into any combination or agreement with or against any person or faction in or out of the Republican organization for the control of patronage, in whole or in part, or at all, or for the control of my actions in any way whatever as the representative of all the people of Alaska, or for any other purpose. I will not be bound by any pledge made for me without it is clearly stated in the platform or resolutions adopted by the convention. It seems to me there can be no successful unity of action or reorganization of the Republican party in Alaska without entire frankness with the men and women who do the voting, and because of that I address this communication to you in this public manner. I can do better without the nomination or the election to Congress than be placed in the attitude of having betrayed either my associates or the people whom I have represented with such freedom and confidence for eight years, and whom I must continue to represent with freedom and confidence, or not at all.

In the event of my election, I pledge myself to harmony and fair dealing toward friends and past opponents alike, to the support of the bill which I have already introduced granting more extended powers to the Territorial government, to the support of the statehood bill, to the creation of better transportation conditions and the control and reduction of burdensome freight rates, and generally to the upbuilding of the industries natural to our Territory and to the development of its great natural resources free from monopoly and unjust restraint. If you nominate me upon this understanding there will be but little chance for contention and disagreement hereafter.

Respectfully,

JAMES WICKERSHAM.

While the clans were gathering at Seward, among other interesting telegrams I received the following:

CORDOVA, ALASKA, *April 16, 1916.*

JAMES WICKERSHAM,

*House of Representatives, Washington, D. C.:*

Unless definite understanding highly probable you not receive nomination convention with Lloyd against you. Thisted, Hazelet small majority against organization. Shackelford who controls without your supporters will have to indorse straight candidate unless you give us assurance. Are you thoroughly informed and with or against organization program?

BOYLE.  
GOODALL.  
GOTTSCHALK.  
CHASE.



I answered as follows:

WASHINGTON, D. C., April 17, 1916.

EDWARD V. BOYLE,  
Cordova, Alaska:

I do not understand what you mean. What definite understanding do you want and what about? Threat to indorse straight candidate if I do not give assurance that I am with or against organization program unavailing until I know what the program is. What is it you want?

JAMES WICKERSHAM.

The reply to my inquiry came back in this form:

SEWARD, ALASKA, April 18, 1916.

HON. JAMES WICKERSHAM,  
Delegate to Congress, Washington, D. C.:

As suggested in your recent open letter of March 30 we wire you under separate night letter copy of plank platform which Russell, chairman platform committee, will insert convention platform affecting patronage. Urge you wire Russell immediately your acceptance platform with this plank. Agreed caucus majority delegates Wickersham for Delegate; Murane, national committeeman; Schofield, attorney general; Shackelford, Gilmore, delegates Chicago; Russell, Gaustad, alternates. Platform covers every item mentioned your open letter. This is the best deal we can secure and have personal pledge every regular Republican attending convention will not only support ticket but organize legislative tickets every division, carry on aggressive and earnest campaign. We realize we must have your acceptance this plank to insure your nomination. Rush answer.

ED. C. RUSSELL.  
H. THISTED.

Another telegram accompanied the former containing the plank I must agree to, as follows:

SEWARD, ALASKA, April 18, 1916.

JAMES WICKERSHAM,  
Delegate to Congress, Washington, D. C.:

We charge the Democratic administration with having ignored Alaskans in appointments to public office in this Territory and with having disgraced our citizenship by the wholesale appointment of nonresidents and carpetbaggers in lieu of bona fide citizens and we condemn this un-American policy and practice as highly prejudicial to our people and detrimental to good government. We reaffirm our party slogan, Alaska for Alaskans, and demand that only bona fide citizens be appointed to public office. We believe that harmonious party organization and solidarity are basic principles controlling good government and to the end that our citizen voters shall have a voice in appointments to public office we pledge to the people of Alaska that all divisional appointments to public office shall be made only upon the joint indorsement of the Republican committee of that division and the Republican national committeeman, and all other presidential appointments to public office in Alaska shall be made only upon the recommendation of the Republican national committeeman of this Territory.

ED. C. RUSSELL.  
H. THISTED.

Acting upon the advice of Hon. Frank P. Woods, chairman of the Republican congressional committee, I did not make any answer to those two telegrams.

Thereafter I received various telegrams from prominent Republicans in Alaska urging me to accept the terms of Murane, Irving, and Shackelford and surrender my duty and supposed influence in the matter of Alaskan patronage to them on the assurance that they would nominate me through their committee of four from the Seward convention, and give me an indorsement at the Republican divisional convention at Juneau. My answer to all these was contained in the following telegram:

WASHINGTON, D. C., August 2, 1916.

ED. C. RUSSELL,  
Juneau, Alaska:

Telegrams received from you \* \* \* advising me to submit to the demands of the Shackelford organization and surrender the power and rights of the people of Alaska in relation to the appointments to Alaskan office in case Gov. Hughes is elected President, in consideration that Mr. Shackelford allow

his committee of four from the Seward convention and his followers in the Republican divisional convention at Juneau to indorse me for Delegate. My letter of March 30 addressed to the delegates at the Republican territorial convention at Seward is my final word on that subject. I will not barter away the smallest right or power of the people of Alaska, or my own right and duty as their representative, to Murane, George Irving, or Shackelford for their indorsement or support, or that of their blind followers. I decline to accept any nomination from Shackelford's unauthorized committee of four from the Seward convention or to approve that plank in its platform establishing boss rule in Alaska. That plank will be repudiated by the Republican national administration and the Senate will refuse to confirm anyone appointed to Alaskan office who approves it. I shall support Hughes and Fairbanks and their national platform, and be a candidate for Delegate to Congress from Alaska on the petition of her citizens free from corrupt boss rule, and I shall be glad to have the indorsement of the Juneau convention on that basis. If I am defeated on this platform I shall at least have preserved my own self-respect.

JAMES WICKERSHAM.

HIYU CULTUS WA WA.

In his messages to Congress on December 7, 1909, December 6, 1910, and February 2, 1912, President Taft denounced my bill providing for the creation of the Alaska Legislature and giving it power to enact laws for the people of Alaska. In that long and bitter contest he was aided by Col. Richardson and other representatives of those who wished to exploit the Territory under the Beveridge bill. Among those who assisted me in that contest was my friend, Mr. John W. Troy, of Seattle. When the fortunes of war came our way, after three years' fighting, and the bill passed the House of Representatives, I sent my friend Troy a copy of the bill, and was pleased when I received the following letter of approval from him:

SEATTLE, May 17, 1912.

Hon. JAMES WICKERSHAM,

Washington, D. C.

MY DEAR SIR: Thank you for the copies of the Territorial government bill as it passed the House and the copy of the Record with your great speech in advocacy of the measure. Pardon me, also, for not extending my congratulations to you upon the success of your long and strenuous efforts in behalf of an American government for the Alaska people before this. My thoughts were carried back to the many conversations we had on the little Tana nearly two years ago many times immediately after we became satisfied that the day of triumph was near, and I know how earnestly you have labored for the passage of a satisfactory bill. I have known thoroughly also how willing and anxious you were to have the bill please the people, caring more for the principle involved than for the details of the measure.

Your speech was a complete answer to the statements of the administration government. There is no comeback. There can be none.

If the bill can only be gotten through the Senate and on the statute books, I am willing to quit and let Alaska work out its own salvation, not that it will not do that without anything I can do anyhow, but I always take up these matters as though the weight were largely on my shoulders. It is probably my own particular brand of egotism, though I always confess to myself that I am not doing much more than the rooter at the baseball game who thinks he is helping the pitcher out of a tight place, and who feels that he is entitled to a large share of the credit for victory when the man on the mound tightens up and wins the game. With very best wishes for your continued success,

I am, sincerely, yours,

JOHN W. TROY.

Later, when the battle had been won, after Congress had passed the bill and President Taft had approved it on August 24, 1912, and after my friend Troy had full knowledge of its contents, he sent me the following additional proof of his friendship and approval of my action and of that organic act, as it now stands on the statute books:

ARCTIC CLUB,

Seattle, August 25, 1912.

Hon. JAMES WICKERSHAM,

Washington, D. C.

MY DEAR JUDGE: I congratulate you sincerely upon the final success of your bill granting Alaska an elective Territorial legislature. You are entitled to the

gratitude of all people that are interested in the welfare of the northern Territory, and, what is better, you have that of nearly all of them that are worth while. I also congratulate you upon your third election as Delegate to Congress. It was a merited verdict. For several weeks before the election it was apparent to any one acquainted with conditions in Alaska that you were billed for another triumph. With very best wishes for your continued success, I am,

Sincerely, yours,

JNO. W. TROY.

My friend Troy is now the very able editor of the Juneau Daily Empire, and wastes great quantities of perfectly good printers' ink in denouncing the law creating and giving legislative power to the Alaska Legislature which he so earnestly assisted me to pass in 1912. What do you Alaskans think of my friend Troy?

PLATFORM ADOPTED BY THE REPUBLICAN TERRITORIAL CONVENTION AT SEWARD, ALASKA, APRIL 19, 1916.

The following is the platform adopted by the Republicans of the Territory in convention at Seward, April 19, 1916; after the delegates had reaffirmed their adherence to the principles of the Republican Party:

First. We believe that the Territory of Alaska is entitled to more extended powers, and pledge our support to statehood for the whole or part of the Territory.

Second. That one of the most vital needs of Alaska is the construction of the railroads, trails, and bridges throughout the Territory to permit the development of regions of rich resources now inaccessible, except at enormous expense, and in order to promote the construction of these great arteries of commerce, we favor financial aid by the Federal Government of all legitimate railroad enterprises organized to build trunk lines in Alaska whenever such companies shall with their own capital make substantial progress with their projects, and we urge that all railroads so aided be governed and controlled in the fixing of a freight and passenger tariff. We urge speedy completion of the governmental railway now being constructed and favor liberal and prompt appropriations therefor.

Third. We believe that the rapid growth of the country and the expansion of its industries has been largely due to the protective tariff inaugurated and maintained by the Republican party; that the present depression in the States is primarily due to its partial abrogation by the Democratic administration. We demand its full restoration, and that our industries shall receive such measure of protection as shall enable them to successfully compete with the nations of the world.

Fourth. As a part of the protective system, we urge the immediate upbuilding by proper legislation of a merchant marine, which shall consist of vessels built by Americans, owned by Americans, manned by Americans, carrying American cargoes, under protection of the American flag, to every foreign port: independent production can not exist with dependent transportation.

Fifth. That Congress is urged to make appropriations for the extension of the Alaska cable and wireless systems to all parts of the Territory.

Sixth. We favor liberal land laws for the Territory which shall encourage the settlement of the agricultural areas and the development of the mineral resources, whereby the settlers and locators may be assured of securing title from the Government without unnecessary delay or departmental interference.

Seventh. We demand Federal investigation of the monopoly known as the "fresh-fish trust" of the United States and Canada, which is driving away from Alaska ports the American fishing fleets, and destroying for the fishermen of Alaska a market for their product which is honestly taken from the waters of the United States.

Eighth. We believe that a most thorough and complete preparation for war is the Nation's greatest guarantee of peace. We therefore favor a complete system of coast defense and an adequate Army and Navy for any purpose, upbuilt, however, along such lines as will not engender a spirit of militarism.

Ninth. We most emphatically disapprove of the vacillating manner in which the Democratic administration has handled affairs with Mexico during the past three years; but we pledge our undivided support to the Government at Washington in its present undertaking in Mexico, and in whatever it may hereafter undertake in vindication of the Nation's rights, and the Nation's honor, in Mexico, or elsewhere.

Tenth. We charge the Democratic administration with having ignored Alaskans in appointments to public office in this Territory, and with having disgraced our citizenship by the wholesale appointment of nonresidents and carpetbaggers in lieu of our bona fide citizens, and we condemn this un-American policy and practice as highly prejudicial to our people and detrimental to good government. We reaffirm our party slogan "Alaska for Alaskans" and demand that only bona fide citizens be appointed to public office. We believe that harmonious party organization and solidarity are basic principles controlling good government, and to the end that our citizen voters shall have a voice in the appointments to public office, we pledge to the people of Alaska that all divisional appointments to public office shall be made only upon the joint indorsement of the Republican committee of that division and the Republican national committeeman, and all other presidential appointments to public office in Alaska shall be made only upon the recommendation of the Republican national committeeman of this Territory.

Eleventh. For the purpose of defining property rights in the Territory and affording to women and children protection, we recommend the passage by the legislature of a community property act.

Twelfth. We, as American citizens, firm in our faith in Republican principles, pledge our support to the nominees of this convention and our moral support to the nominees of the national convention to be held at Chicago on June 7, 1916, and we hereby pledge our candidate for Delegate to use his best endeavors to carry out the above platform.

#### CONTESTANT'S EXHIBIT H.

[Photograph. Underneath appears the following:]

EXECUTIVE OFFICE.

*Asbury Park, N. J., September 15, 1916.*

Hon. T. J. DONOHUE,

*Democratic National Committeeman, Valdez, Alaska:*

In reply to your telegram of recent date would say that I very earnestly favor the election of Charles A. Sulzer as Delegate to Congress from Alaska.

WOODROW WILSON.

#### CHARLES A. SULZER, CANDIDATE FOR DELEGATE TO CONGRESS.

Senator Sulzer was born on a farm in New Jersey, February 24, 1879. He attended the public schools in that State and was graduated from Berkeley Academy, New York City. He joined the Fourth Regiment of New Jersey Volunteers in the Spanish-American War. After being discharged from the Army he spent one year in West Point Military Academy. Mr. Sulzer came to Alaska in 1902 and settled at the present town of Sulzer on Prince of Wales Island, 50 miles west of Ketchikan.

He was married in Alaska in 1905 to Miss Gertrude Harrison. Mr. and Mrs. Sulzer resided at their home in Sulzer ever since. They have one child, a boy 9 years of age.

Mr. Sulzer has been extensively engaged in mining. Upon starting operations in Alaska in 1902 he established an eight-hour day, has always paid the highest wages in his district, and given everyone a square deal. His home and all his interests are in Alaska and he is thoroughly Alaskan in every sense of the word; he is an honest, sincere, broad-minded and able man, and has done much to develop Alaska. He served with credit in the 1915 Alaskan Legislature. He stands for a united and harmonious Alaska, for teamwork and constructive businesslike policies for the upbuilding and development of all parts of the Territory.

Senator Sulzer is a member of the Elks Lodge of Elizabeth, No. 289, is a trustee of the Grand Camp of Arctic Brotherhood, a member of the Ketchikan Aerie of the Fraternal Order of Eagles, and a director of Sulzer Lodge No. 1205, Loyal Order of Moose.

In 1914 he was elected by a large majority to the office of Territorial senator in the first division.

#### GEORGE B. GRIGSBY, CANDIDATE FOR TERRITORIAL ATTORNEY GENERAL.

George B. Grigsby was born in Sioux Falls, S. Dak., December 2, 1874. He received his education in the public schools and University of South Dakota.

Was admitted to the bar in 1896. Joined the volunteers in the Spanish-American War and was a first lieutenant in the Rough Rider Regiment. Practiced law in South Dakota and Colorado. In 1902 Mr. Grigsby took up his residence at Nome and there opened a law office, at which place he has since resided and practiced his profession. In 1904 he married Miss Elizabeth Chapman at Nome. Mr. and Mrs. Grigsby have four children, all born in Alaska. In 1912 Mr. Grigsby was city attorney of Nome and in 1914 was elected mayor of that town.

Mr. Grigsby during his entire residence in Alaska has been actively engaged in the practice of law and is regarded as one of the best lawyers in the Territory.

#### JOHN RONAN, CANDIDATE FOR TERRITORIAL SENATOR.

John Ronan came to Alaska in 1898. His first work in the Northland was as a laborer on the White Pass Railroad then being constructed from Skagway to White Pass. Later Mr. Ronan went to Fairbanks where he became interested in valuable placer ground which he operated for several years. In 1908 Mr. Ronan was the Democratic candidate for Delegate to Congress. About four years ago he became interested in the development of a quartz mine about 50 miles from Seward; since then he has devoted his energies to the development of this property. Mr. Ronan is an experienced public speaker; a man of high moral character, and eminently qualified to discharge the duties of Territorial senator.

#### CANDIDATES FOR TERRITORIAL REPRESENTATIVES.

Thomas H. Holland was born in Missouri 42 years ago. He came to Alaska in 1898 and has resided in the Territory ever since and is a typical "sour-dough." In 1914 he was a candidate for the Alaska Legislature and was the only Democrat elected from this division. His home is at Chitina. He is engaged in mining and prospecting and is the owner of several very promising mining properties in the Copper River Valley. Mr. Holland, as a member of the Alaska Legislature demonstrated by his work that he is a man in every manner able and capable of performing the important duties of this office. He has shown himself to be an honest, sane, and safe legislator.

Charles McCallum is 40 years of age and came to Alaska in 1900. The first seven years of his residence in the far north was in and about Fairbanks. In 1907 he came to Valdez where he has since permanently resided. Mr. McCallum is a miner by occupation and since 1910 has been the secretary of the Miners' Union No. 188, Western Federation of Miners. The citizens of Valdez have always held Mr. McCallum in high esteem. He was elected to the city council of Valdez in the years 1911, 1912, and 1916. He is a member of Valdez Aerie, No. 1971, Fraternal Order of Eagles. Mr. McCallum is so well and favorably known throughout the third division for the active part he has taken in all progressive movements for the betterment of Alaska generally that we scarce need say a word in his behalf. The broad-minded stand he has taken on every issue of public concern is a sufficient indication that his actions in the next Alaskan Legislature will carry with them the hearty indorsement of the people of the third division.

Thomas C. Price first settled in Juneau, Alaska, more than 20 years ago at which place he operated an extensive plumbing business until 1908 when he moved to Cordova with his wife and daughter, purchased a lot and built himself a home and was engaged in the plumbing business there until 1915. He then moved to Anchorage, where he is now engaged in the same business. Mr. Price for several years past has employed his spare time in the study of law and in 1915 passed a very thorough examination for admission to the bar before a committee appointed by the district court for the third division. He has the respect and confidence of all who have ever met him and if elected will discharge the duties of his office to the satisfaction of his constituents.

Frank B. Cannon is one of the old-timers of Alaska and is well and favorably known throughout a large portion of the Territory. He is now engaged in conducting a hotel and road house near Knik, Alaska, at which hostelry the Alaska prospector or traveler is always welcome whether he has money to pay for his accommodation or not. Mr. Cannon is a sound reasoner and well equipped in every manner to ably discharge the duties of the office to which he aspires.



## JAMES E. WILSON, CANDIDATE FOR ROAD OVERSEER.

James E. Wilson is 50 years of age. In 1898 he came to the Northland where he engaged in freighting at Dyea and Skagway and later at Dawson and Fairbanks. In 1907 he took up his residence at Valdez where he has since resided. During his 18 years in the Territory he has been continuously engaged in the freighting business. Mr. Wilson has probably freighted over more miles of the roads and trails in different portions of Alaska than any other person. From his experience on these roads and trails and his knowledge of what is needed for their improvement he is peculiarly well fitted to perform the duties of the office of road commissioner.

His election means that every dollar coming into the hands of the road commissioner for this district will not only be honestly expended, but to the greatest possible benefit and improvement of the roads and trails.

DEMOCRATIC DIVISIONAL COMMITTEE,  
*Third Division.*

This matter coming on for hearing before Dwight D. Hartman, a notary public in and for the State of Washington, in the city of Seattle, Wash., upon notice by the contestant to take the deposition of Mrs. A. L. Spencer, a witness on behalf of the contestant, contestant appearing in person and the contestees by Messrs. Leehy & Jones; notice of the taking of the deposition of this witness was given by the contestant for Saturday, the 25th day of October, 1919, but it is agreed between the attorneys for contestant and contestees, that the deposition of this witness may be taken this day on account of her desire to leave the city.

The witness was first sworn by Dwight D. Hartman, esq., notary public, to tell the truth, the whole truth, and nothing but the truth, and thereupon her deposition was taken, as follows:

## DEPOSITION OF MRS. A. L. SPENCER.

Direct examination by Mr. WICKERSHAM:

Q. Mrs. Spencer, please state your name.—A. Mrs. A. L. Spencer.

Q. How old are you, Mrs. Spencer?—A. Fifty-four years.

Q. Where were you born?—A. Dubuque, Iowa.

Q. When did you first come to Alaska?—A. I first went to Yukon Territory in 1898.

Q. And to Alaska—A. The spring of 1896.

Q. Where did you come from to the northern country?—A. From Los Angeles, Calif.

Q. Mrs. Spencer, were you in Cordova on election day, November 5, 1918?—A. I was.

Q. Did you vote there that day?—A. I did.

Q. Do you know one George Walker, who formerly resided at Fairbanks?—A. Just by sight.

Q. Do you remember having any conversation with him there?—A. Never in my life, any conversation.

Q. What was there said to you by him on that day, if anything, in relation to how you voted?—A. When we went up to vote, there were quite a few men in the room, Mr. Walker among them. He said, "Tell us how you are going to vote," and I said, "Nothing doing," and nothing more was said.

Q. Did you tell Mr. Walker how you did vote?—A. No, sir; I never spoke to Mr. Walker; would not think of such a thing.

Q. Who was with you?—A. Mr. and Mrs. William Zacharias.

Q. Did they tell him how they voted?—A. No, sir; not in my presence.

Q. Did you and they formerly know Walker and his wife in the interior?—A. I did, but I don't know whether they did or not.

Q. What did you do in the interior?—A. I used to run a little hotel at Fairbanks, Alaska.

Q. Are you quite positive that none of you told Walker how you voted?—

A. I am quite positive.

Q. Did you see Walker at any other time than that once?—A. No, sir; never.

Q. I mean at Cordova?—A. No; never.

Q. And you are sure you never told him how you voted?—A. No, sir; I would not degrade myself by talking to him.

Q. You know Mr. Walker and his wife—their character?—A. I think I know them pretty well. I would not be seen talking or looking at him.

Q. What was his business?—A. At Fairbanks he was a bartender, and in Cordova ran a saloon.

Q. Now, there is some question about how you voted—have you any objections to telling just whom you voted for for Delegate to Congress?—A. I have the privilege of keeping that to myself.

Q. You object to telling?—A. I do object to telling.

Q. Did you know Mr. and Mrs. Sulzer?—A. Quite well.

Q. Were you friendly with them?—A. Very friendly; yes. In fact, I have some snapshots of Mrs. Sulzer and her son.

Q. That you made yourself—A. No; other friends. But we were all there together and they gave them to me.

Q. Did they come out there to visit you?—A. Not me, but the neighbors there.

Q. You are well acquainted with them?—A. Quite well.

Q. You object to telling whether you voted for Sulzer or not?—A. That is my privilege. I do not think I have to tell who I voted for.

Q. Do you know who Zacharias voted for November 5, or at that election?—A. No; they never told me, or I think anyone else, and we were together all the time until we said good-bye at Seattle. I know I made the remark to Mr. Zacharias, "If you tell me who you voted for I will tell you," and he said he would not tell me, and I am quite sure he never told Walker or anyone else.

Cross-examination by Mr. JONES:

Q. You don't know of your own knowledge whether or not this Mr. and Mrs. Zacharias may have talked to this man some other time?—A. To my knowledge, they never did, for we were at the hotel all the time from Fairbanks out, and we were not separated an hour. Our sleeping rooms were right together, and we went to dinner together, and I know they never went from one hotel to another to talk to Walker. We stayed at one hotel and he was working at the other.

Q. Were they acquainted with this Mr. Walker?—A. Not that I know of. I could not tell you that.

Q. Did you know Judge Wickersham when you lived in Fairbanks?—A. I did.

Q. Well?—A. Quite well. Quite friendly with both him and his wife.

MRS. A. L. SPENCER.

Subscribed and sworn to before me this 22d day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,  
Notary Public in and for the State of  
Washington, residing at Seattle.

STATE OF WASHINGTON, *County of King*, ss:

I, Dwight D. Hartman, notary public in and for the State of Washington, residing at Seattle, in said county and State, do hereby certify that the above and foregoing depositions were taken before me at my office, No. 300 Burke Building, in the city of Seattle, King County, Wash., on the 22d day of October, 1919, pursuant to notice, that the said depositions were taken down in shorthand by Edward W. Hart, reduced to writing by him, and thereafter read over by the witness; that said deposition was subscribed by her in my presence; that before the taking of said deposition, the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that neither Edward W. Hart nor myself have any interest in the result of this contest.

In witness whereof, I have hereunto set my hand and notarial seal, this 22d day of October, 1919.

[SEAL.]

DWIGHT D. HARTMAN,  
Notary Public in and for the State of  
Washington, residing at Seattle.

To the above-named contestee and his attorney J. A. Hellenthal, Esq.:

Take notice that before Will H. Winston, a notary public, at said notary's office at Ketchikan, Alaska, on Monday the 11th day of August, 1919, beginning

at 11 o'clock in the forenoon of that day, and thence continuing until completed, the contestant, James Wickersham, will take the deposition of each of the following witnesses for said contestant in the above-entitled proceeding, to wit: S. S. Kinkaid, J. A. Kinkaid, John W. Jones, and E. G. Morrissey, the residence of each of whom is at Ketchikan, Alaska.

Dated this 9th day of August, 1919.

JAMES WICKERSHAM, *Contestant*.  
By JOHN RUSTGARD, *His Attorney*.

Copy of the foregoing notice received at Juneau, Alaska, this 9th day of August, 1919.

J. A. HELLENTHAL.

NOTICE OF TAKING DEPOSITIONS.

*To George B. Grigsby, contestee, and Maurice D. Leechy, his agent as constituted by that certain agreement dated at Washington, D. C., July 28, 1919, between James Wickersham, contestant, and George B. Grigsby, contestee:*

You, and each of you, are hereby notified that the depositions of Col. B. O. Lenoir, Ike A. Beals, and James B. Looney, ——— Labisky, ——— Van Wyck, M. H. Faust, and P. H. Nash in the United States Army and now on duty at Seattle, and each of them, will be taken before Mr. Harold H. Hartman, a notary public in and for the State of Washington, at his office at 306 Burke Building, in the city of Seattle, Wash., at the hour of 10 o'clock a. m. on the 6th day of August, 1919, to be read in evidence in the above entitled proceeding on behalf of said James Wickersham, contestant, and that the taking of said depositions will be continued from day to day thereafter, and over Sundays and other holidays, if any, until the taking of the same shall have been completed.

You are requested to have your attorney or agent present to cross-examine said witnesses.

Dated this 4th day of August, 1919.

JAMES WICKERSHAM, *Contestant*.

Received copy August 2, 1919.

MAURICE D. LEEHEY, *Agent*.

*To the above-named contestee and his attorneys, J. A. Hellenthal and John R. Winn:*

Take notice that before Will H. Winston, a notary public, at said notary's office at Ketchikan, Alaska, on Monday, the 11th day of August, 1919, beginning at 4 o'clock in the afternoon of that day, and thence continuing until completed, the contestant, James Wickersham, will take the deposition of Adam Shellhouse, a witness for contestant in the above-entitled contest; the residence of said Adam Shellhouse being at Sulzer, Alaska.

Dated this 10th day of August, 1919.

JAMES WICKERSHAM, *Contestant*.  
By JOHN RUSTGARD,  
*Attorney for Contestant*.

Copy of the foregoing notice received at Juneau, Alaska, this 10th day of August, 1919.

JNO. R. WINN.

*To George B. Grigsby, contestee, and A. J. Dimond, his agent in the above-entitled proceeding:*

You are hereby notified that the depositions of E. P. Cashman, Mrs. E. P. Cashman, W. S. Beck, Sam Campbell, Walter Stuart, and each of them, will be taken before Joseph L. Reed, Esq., a notary public in and for the Territory of Alaska, at his office on the wharf in the town of Valdez, Alaska, beginning at the hour of 10 o'clock a. m. on the 28th day of August, 1919, the same to be read in evidence in the above entitled proceeding on behalf of the said James Wickersham, contestant, and that the taking of said depositions would be continued from day to day thereafter and over Sundays and other holidays, if any, until the taking of the same shall have been completed.

You are requested to be present to take such action as you may deem advisable.

Dated this 23d day of August, 1919.

JAMES WICKERSHAM, *Contestant*.

*To Charles A. Sulzer, contestee, George B. Grigsby, contestee, and to John A. Clark, his agent and attorney:*

You are hereby notified that the depositions of Edward E. Beattie, William T. Barr, Jas. M. Campbell, and Louis G. Selk, all soldiers in the United States Army, stationed at Fort Gibbon, Alaska, will be taken before J. C. Dehn, a notary public in and for Alaska, at his office in the town of Tanana, Alaska, at the hour of 10 o'clock a. m. on the 6th day of September, 1919, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, to be read in evidence in the above-entitled proceeding, on behalf of said James Wickersham, contestant, and that at the taking of said depositions you are requested to have your attorney or agent present to cross-examine said witnesses if he so desires.

Dated at Fairbanks, Alaska, this 30th day of August, 1919.

JAMES WICKERSHAM,  
Contestant.  
By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 30th day of August, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestant.

*To Charles A. Sulzer, contestee, George B. Grigsby, contestee, and to John A. Clark, his agent and attorney:*

You are hereby notified that the depositions of James W. Boon, James P. Lake, James W. McConnell, Clement C. Stroups, and Howard G. Wescott, all soldiers in the United States Army, stationed at Nulato, Alaska, will be taken before Frank Lyons, postmaster at Nulato, Alaska, at his office at Nulato, Alaska, on the 6th day of September, 1919, at the hour of 10 o'clock a. m. of said day, then and there to be examined and to testify on oath respecting the said contested election and the issues in said contest, to be read in evidence in the above-entitled proceeding, on behalf of said James Wickersham, contestant, and that at the taking of said depositions you are requested to have your attorney or agent present to cross-examine said witnesses if he so desires.

Dated at Fairbanks, Alaska, this 30th day of August, 1919.

JAMES WICKERSHAM,  
Contestant.  
By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 30th day of August, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestees.

*To George B. Grigsby, contestee, and Maurice D. Leehey, his agent in the above-entitled proceeding at Seattle, Wash.:*

You are hereby notified that the depositions of S. J. Bakke, Senator James Frawley, T. M. Reed, of Nome; A. L. Spencer, Fred Van Camp, W. T. Lopp, Walter Johnson, of Seattle; Milo Kelly, Anchorage; Otto Kraft, of Kodiak; B. O. Lenoir, Seattle; Judge G. J. Lomen, of Nome; R. Blix, of Copper Center; and James Wickersham, of Fairbanks, Alaska, and each of them, will be taken before Dwight D. Hartman, esq., a notary public in and for the State of Washington, at his office on the third floor of the Burke Building, Seattle, Wash., beginning at the hour of 10 o'clock a. m. on the 25th day of October, 1919, the same to be read in evidence in the above-entitled proceeding on behalf of the said James Wickersham, contestant, and that the taking of said depositions would be continued from day to day thereafter and over Sundays and other holidays, if any, until the taking of the same shall have been completed.

You are requested to be present to take such action as you may deem advisable.

Dated at Seattle this 22d day of October, 1919.

JAMES WICKERSHAM,  
Contestant.

Service accepted October 22, 1919.

MAURICE D. LEEHEY,  
Attorney for Grigsby.

*To Charles A. Sulzer, contestee, George B. Grigsby, and John A. Clark, his agent and attorney:*

You are hereby notified that the depositions of T. E. Phillips, Agnes Hicks, George Meilandt, George A. Pilz, Andrew Larsen, Charles Arnold, John P. Carroll, Hannah J. Johnson, E. L. Eckstein, George D. Hicks, James H. Morris, Ole Berg, John A. Lambert, Charles L. Johnson, N. M. Patterson, W. Hunt, John Ostergard, James Madigan, C. D. Arnold, Emil Kruger, William Dowell, H. Sinner, J. A. Kemp, Mrs. J. A. Kemp, A. B. Swing, John Haun, Joseph N. Brost, and George H. Gidus, all residents of Forty Mile precinct, fourth division, Territory of Alaska, and each of them, will be taken before Charles E. M. Cole, a notary public in and for Alaska, at his office at Jack Wade, Alaska, at the hour of 10 o'clock a. m. on the 3d day of September, 1919, to be read in evidence in the above-entitled proceeding, on behalf of said James Wickersham, contestant, and that the taking of said depositions will be continued from day to day thereafter and over Sundays and other legal holidays, if any, until the taking of the same shall have been completed.

And you are further hereby notified that at the same time and place the deposition of Charles E. M. Cole, whose residence is Forty Mile precinct, fourth division, Territory of Alaska, will be taken before J. J. Donovan, commissioner in and for Forty Mile precinct, Alaska, to be read in evidence in the above-entitled proceeding, on behalf of said James Wickersham, contestant, and that the taking of said deposition will be continued from day to day thereafter and over Sundays and other holidays, if any, until the taking thereof shall have been completed.

You are requested to have your attorney or agent present at said examinations to cross-examine said witnesses.

Dated this 23d day of August, 1919.

JAMES WICKERSHAM,  
Contestant.  
By MORTON E. STEVENS,  
His Attorney.

Due service of the foregoing notice, together with a copy thereof, is hereby acknowledged this 23d day of August, 1919, at Fairbanks, Alaska.

JOHN A. CLARK,  
Attorney for Contestee and George B. Grigsby.

The hearing of testimony in rebuttal for contestant was begun at the office of Arthur G. Thompson, notary public, at his office in the town of Anchorage, Alaska, on the 25th day of October, 1919, at 2 o'clock p. m., there being present Mr. Carl Almy, representing the contestee; ——— Duggan, representing the contestant, and two witnesses duly summoned.

Mr. DUGGAN. I will first offer for record this document (a stipulation under which the testimony of Harry Kingsbury and Mr. and Mrs. Clarence W. Mossman was taken in this case in the direct hearing) and request that it be marked "Exhibit A," and made a part of the record herein.

Mr. Thompson, will the witnesses be sworn together or separately?

Mr. THOMPSON. I will swear them at the same time. [Administers oath to Mr. Lynch and Mr. Emard; Mr. Lynch takes the stand.]

#### DEPOSITION OF M. H. LYNCH.

By Mr. DUGGAN:

Q. Your name is M. H. Lynch?—A. Yes, sir.

Q. You reside in Anchorage?—A. Yes, sir.

Q. You are or have been in business with Mr. Emard?—A. Yes.

Q. Where is your place of business?—A. 325 Fourth Avenue.

Q. Your business is known as the Anchorage Realty Co.?—A. Yes.

Q. Have elections ever been held in your office?—A. Yes; three times, to my recollection.

Q. That would be the general election of 1916, 1918, and the special election?—A. Yes.

Q. Where was the general election held for precinct No. 2 in 1918?—A. In our office.

Q. Had notice been given that it was to be held there?—A. The notice was first posted on the door of what was known as the Recreation Pool Hall.



Q. That is in the general election of 1918, the notice designating precinct No. 2 was posted on the door of Recreation Pool Hall, naming that hall as the place of election.—A. Yes.

Q. Was your place known as precinct No. 2 in the general election of 1918?

Mr. ALMY. Objection. Not the notice of election in question here.

A. The notice was first posted on the pool hall, but, on account of sickness, was changed to our office.

Q. Were you at the place known as the Recreation Pool Hall on the morning of the election?—A. Yes; at half past seven on that morning.

Q. Had it been fitted up for the purpose of holding the election?—A. No. There was nothing there—no booths, no tables, not even means of warming; the place had not even been swept out.

Q. Nothing provided?—A. No. I then went back to our office and told Mr. Emard, who was judge of election, of the condition of the Recreation Pool Hall.

Q. Did you have any conversation with Judge Leopold David, commissioner, in regard to this matter?—A. Yes; I asked him what he was going to do about it?

Q. You phoned to Judge David in regard to the Recreation Pool Hall not being a fit place to hold election?—A. Yes, sir.

Q. You talked the matter over with Judge David?—A. Yes. I asked him what we should do about it. I said the people would soon be coming in to vote—in 20 minutes.

Q. What did he reply?—A. He said that elections have been held in your office before, why not hold it there again, and he directed that a notice be posted on the door of the Recreation Pool Hall stating that the place of polling for the second precinct had been changed to our office, on account of sickness; Mr. Ramsey had been taken ill the evening before and the hall had not been prepared.

Q. Notice was posted?—A. Yes.

Q. Do you know the wording of that notice or where a copy is to be had?—A. Mr. Thompson has a copy, I guess. Mr. Emard, I think, gave him a copy.

Q. In accordance with that notice, the election was held in your office?—A. Yes.

Q. Do you know anyone who on account of the change in place of polling was misled and lost his vote?

Mr. ALMY. Objection. This witness was not a judge of election, or an official of any kind.

Q. Do you know of anyone who claimed to have been misled on account of the change in polling place?—A. I do not. I hear some say they read the notice.

Q. With regard to the location of the Recreation Pool Hall, where is your office?—A. It is across the street, about half a block east, on Fourth.

Q. What is Fourth Street in Anchorage?—A. It is the main business street.

Q. So the change was only from one place on Fourth Street to another half a block distant on the same street?—A. Yes, sir.

Q. What time was this notice posted on the Recreation Pool Hall?—A. About 7.30 or a quarter to 8.

Q. Who signed this notice?—A. It was not signed. It was just typed and posted up, a printed notice.

Q. Mr. Lynch, Mr. Fred Martin, in the other hearing in this matter, testified that you handed some votes during the absence of Mr. Emard?—A. Yes. Mr. Emard asked me to take his place while he was absent answering a call of nature. I had passed three or four votes to the official at the box, when Fred Martin called attention to the fact that I was not an official myself, and I did not handle any more.

Q. Do you know how many you handed up?—A. I may have taken three or four, not more than four, in that neighborhood.

Q. You think there were three or four at most?—A. Yes; not more than four.

Q. Was Mr. Martin representing the Democratic Party?—A. He said he was.

Q. That is all.

M. H. LYNCH.

Subscribed and sworn to before me this 14th day of November, 1919.

[SEAL.]

ARTHUR G. THOMPSON.

## DEPOSITION OF H. J. EMARD.

Mr. EMARD having been previously sworn was here called to the stand.

By Mr. DUGGAN:

Q. You were judge of election at the general election of 1918?—A. Yes.

Q. Whom were you designated to represent?—A. To my recollection, no one. Nothing was said to me about that.

Q. You were a partner of the previous witness, Mr. M. H. Lynch, in the real estate business, at that time?—A. No; not at that time.

Q. You have been?—A. Yes.

Q. You are aware that the original notice of election designated the polling place of the second precinct in 1918 at the Recreation Pool Hall, are you not?—A. Yes.

Q. Was it held there?—A. No.

Q. Why?—A. Because on the morning of the election I went over there to get the place ready for the election and found that it could not be used for that purpose and be opened on time for the voting to begin at 8 o'clock.

Q. For what reason?—A. It is a big, barn-like structure, 20 by 125 feet; no stoves, or even stove pipe, no booths, tables, counters; nothing in the room except two pool tables; the floor has been torn up over an area of one-half of the room for purposed repairs, and was strewn about.

Q. Was there a disease epidemic at that time?—A. Yes; the influenza was epidemic at that time. I called up Mr. Anderson, the owner of the building, and asked him why no preparations had been made to get the building ready for the election, and he replied that he had been taken ill with the influenza the evening before, and unable to attend to it.

Q. What was the stage of the epidemic at that time?—A. It was at its height.

Q. Did you have anyone communicate with Judge David in regard to a new place?—A. Yes. I asked Mr. Lynch to call Judge David and tell him the circumstances and see what was to be done. I was there when Mr. Lynch 'phoned as to the Recreation Pool Hall being unfit to hold the polling in, and he replied that we could use our own place instead, and told us to post a notice to that effect on the Recreation Pool Hall before 8 o'clock; which I did, personally; stating in the notice that on account of sickness our office would be used as the polling place. I posted this notice before 8.

Q. What public office did Judge David hold at that time?—A. United States commissioner at Anchorage, Alaska, Knik precinct.

Q. Do you know of any persons who were deprived of their votes by reason of the change of polling place from the Recreation Pool Hall to your office?—A. I do not.

Q. How far was the pool hall from your office?—A. About a block east, on the opposite side of the street.

Q. Mr. Emard, was not this change made in the interests of the public health and for the convenience and safety of the public?—A. Yes.

Q. Is it not a fact that all elections previous to this one had been held in your place as to the second precinct?—A. Yes; all up to that time.

Mr. ALMY. Did Judge David tell you personally that you could change the polling place?

Mr. EMARD. He told me through Mr. Lynch.

Mr. ALMY. You only know what Mr. Lynch told you Judge David said?

Mr. EMARD. I was present when he 'phoned.

Mr. DUGGAN. Mr. Emard, did you afterwards have any conversation with Judge David as to this matter?

Mr. EMARD. Yes. He afterwards stated the same to me.

Mr. ALMY. You stated that you did not know of any one who lost his vote on account of the change in polling places. I take it you would not say no one did?

Mr. EMARD. I would not.

Mr. DUGGAN. Do you think it possible for any one to have lost their vote on account of the change?

Mr. EMARD. No one ever mentioned the matter of changing the polling place to me. They read the notice and came over to my place, or learned from others or saw that the voting was going on at our office.

Mr. DUGGAN. That is all.

H. J. EMARD.

Subscribed and sworn to before me this 24th day of November, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires May 6, 1922.

The hearing of testimony in the above-entitled case was resumed on the 27th day of October, 1919, at half past 7 p. m., pursuant to adjournment, there being present Mr. Thompson, notary public, Mr. Duggan, representative of the contestant, and one witness summoned to appear.

DEPOSITION OF F. M. BOYLE.

Mr. DUGGAN. Mr. Thompson, please swear the witness, Dr. Doyle.  
(Mr. Thompson administered oath.)

By Mr. DUGGAN:

Q. You are Dr. F. M. Boyle?—A. Yes.

Q. You reside in Anchorage?—A. Yes.

Q. You are a practicing physician?—A. Yes.

Q. You were practicing here and residing in Anchorage in 1918 at election time?—A. I was.

Q. What was the condition of the public health at the time of the election of 1918, November 4?—A. There was an epidemic of influenza prevailing at that time.

Q. Was it quite severe in Anchorage?—A. It was severe and widespread; I estimate that 60 per cent or more of the population suffered from it. Practically all in greater or less degree.

Q. You are aware that the original election notice fixed the polling of the second precinct to be held in the Recreation Pool Hall?—A. Yes.

Q. Was the election held there?—A. It was not.

Q. Do you know why it was not held there?—A. No provision had been made at that place to afford heat, tables, or other conveniences for the judges and people, and on the morning of the election, November 5, 15 minutes before the time for opening the polls, I notified Commissioner Leopold David to this effect, stating to him that no heat had been provided, nor indeed anything done to render the place fit for a polling place; and told him provisions could be made to hold the election half a block from the pool hall where the accommodations necessary and convenient were available; and he said that should be done and to have everything arranged accordingly.

Q. You are the health officer of Anchorage?—A. I was sanitary officer of the town of Anchorage at the time.

Q. Would it have been dangerous to the public health to have held the election in the Recreation Pool Hall without heat or other accommodations?—A. It would have been extremely derogatory to the health of the people, judges and clerks of election, in view of the weather conditions prevalent at that time, to have held the election in the Recreation Pool Hall.

Q. Leopold David, of whom you speak, is United States commissioner for the district in which Anchorage is situated?—A. Yes.

Q. Do you know whether a notice was posted in the window of the Recreation Pool Hall stating that a change had been made and directing voters where to go?—A. Yes. Prior to the time for opening the polls a notice was posted on the door of Recreation Pool Hall.

Q. Is it not a fact, Doctor, that all of the elections previous to this one had been held in the office of the Anchorage Realty Co. for the second precinct?—A. Yes.

Q. Do you know of any one who was deprived of his vote by reason of the change of place of polling?—A. I do not.

Q. With reference to the recreation pool hall, where was the office of the Anchorage Realty Co. where the election was held?—A. It was diagonally across the street about half a block distant.

Q. On what street?—A. On the same street.

Q. What is Fourth Street in the town of Anchorage?—A. It is the main business street.

Q. So the polling place was merely changed to one one-half a block farther down the same street?—A. Yes.

Q. Was it possible for any one to have lost his vote by reason of this change in polling place?—A. In my opinion, no one lost his vote on account of this change. It was generally known that the polling place had been changed; notice was posted and quite adequately made public.

Q. Is it not a fact, Doctor, that many people, not having read the notice, went to Anchorage Realty Co.'s office as a matter of habit, having voted there

before?—A. The office of the Anchorage Realty Co. is the place where all previous elections had been held, and that is where they would have gone.

Q. To your knowledge, did any one object to the change in place of polling?—A. No.

Q. Now, Doctor, another question. You knew S. A. Polley in his lifetime?—A. Yes.

Q. Is he living or dead?—A. S. A. Polley died early in the summer of 1918; I can not remember the exact date.

Q. Can you name the month in which he died, or thereabouts? Was it before election?—A. Yes; it was in the summer. It was in the month of August, 1918. I was his physician. I could give the date by reference to my papers.

Q. Thanks, Doctor. That is all.

F. M. BOYLE.

Subscribed and sworn to before me this 14th day of October, 1919.

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public.

My commission expires March 6, 1922.

This is to certify that M. H. Lynch, F. M. Boyle, and H. J. Emard, the witnesses whose testimony is set forth in the foregoing deposition, appeared before me, a duly qualified notary public in and for the Territory of Alaska, at the time and place in this deposition stated, and after being first duly sworn to tell the truth, the whole truth, and nothing but the truth, was then and there interrogated touching the matters and things in issue in his contest, by the persons representing the contestant or the contestee in said deposition stated, and that the interrogatories propounded to said witness and the answers given by said witness to said interrogatories, together with the objections of counsel representing the parties to this cause, are truly set forth in said deposition.

That I caused said depositions to be taken and transcribed by Mrs. Isabel Nelson, a stenographer, and when completed said deposition was read by said deposing witness and by him corrected, and that said witness then signed the same and swore that said deposition was true.

That the exhibits referred to in said deposition are attached hereto, or accompany this deposition, together with all notices and stipulations taken and filed with me in the case.

In witness whereof I have hereunto subscribed my name and affixed my official seal this 26th day of November, 1919

[SEAL.]

ARTHUR G. THOMPSON,  
Notary Public in and for the Territory of Alaska, residing at Anchorage.

My commission expires May 6, 1922.

#### STIPULATIONS.

It is hereby stipulated and agreed by and between Sherman Duggan, representing the contestant, and Thomas Price, representing the contestee, that the testimony of F. M. Boyle, a witness produced on behalf of contestant in rebuttal, may be taken before Arthur G. Thompson, a notary public in and for the Territory of Alaska, at the office of Arthur G. Thompson, in the town of Anchorage, Alaska, on the 27th day of October, 1919.

SHERMAN DUGGAN,  
Attorney for Contestant.  
THOS. C. PRICE,  
SHERMAN DUGGAN,

#### CONTESTANTS EXHIBIT A.

#### STIPULATION.

Before Arthur G. Thompson, a notary public in and for the Territory of Alaska, residing at Anchorage.

It is hereby stipulated and agreed by and between James Wickersham, contestant, by his agent and representative, Dr. F. M. Boyle, and Charles A. Sulzer

(for whom George B. Grigsby has been substituted for purpose of service and notice, upon the demise of said Sulzer) contestee, by his agent and representative and on behalf of said Grigsby, Thomas C. Price, in the above-entitled cause and the hearing therein, that the testimony of Harry Kingsberry, a witness cited to appear herein, may be taken, on the 2d day of September, 1919, at the hour of 8 o'clock p. m.; and the testimony of C. W. Mossman, and Mrs. Mossman, a witness cited to appear herein, but at present absent from the town of Anchorage, may be taken upon his return at a time to be agreed upon by the representatives of the contestant and the contestee herein; and that no objection to said testimony or the introduction thereof shall be taken upon the trial of said cause, on account of the extension or limitation of time herein stipulated.

Dated at Anchorage, Alaska, this 2d day of September, 1919.

F. M. BOYLE,  
*Representative of Contestant.*  
THOS. C. PRICE,  
*Representative of Contestee.*

NOTICE TO TAKE DEPOSITIONS FOR CONTESTANT IN REBUTTAL.

*To Thomas C. Price, attorney and representative for George Grigsby, at Anchorage, Alaska.*

You will please take notice that on Saturday the 25th day of October, 1919, at the hour of 10 o'clock a. m., at the office of Arthur G. Thompson, on the corner of F and Fourth Streets, in the town of Anchorage, Alaska, the following witnesses, whose residence in Anchorage, Alaska, will be examined under oath before Arthur G. Thompson, a notary public in and for the Territory of Alaska, in the above-entitled cause: M. H. Lynch and Henry Emard; and on the same day, at the same place, at the hour of 2 o'clock p. m., before Henry Emard, a notary public in and for the Territory of Alaska, the witness Arthur G. Thompson, of Anchorage, will be examined under oath, in the above-entitled cause, all of said witnesses being produced on behalf of the contestant herein, in rebuttal, at which time and place you may attend if you so desire.

SHERMAN DUGGAN,  
*Attorney for Contestant.*

Received copy of foregoing notice October 20, 1919.

THOMAS C. PRICE,  
*Attorney for Contestee.*

DEPOSITION OF ARTHUR G. THOMPSON.

Deposition of Arthur G. Thompson, a witness produced on behalf of the contestant, taken before Carl Almy, a notary public in and for the Territory of Alaska, at 2 o'clock p. m. on the 25th day of October, 1919, at Anchorage, Alaska.

Mr. DUGGAN. I wish to place Mr. Thompson on the stand. Mr. Almy, you are a notary public, I believe. Will you swear Mr. Thompson?

(Mr. Almy administers oath.)

Questions by Mr. DUGGAN:

Q. Mr. Thompson, have you a map of the town of Anchorage?—A. Here is one.

Q. How may one establish the identity of this map?—A. It is a copy of the map in the recorder's office. I believe it is the official map of the town of Anchorage.

Q. I offer this map for record in this case, and ask to have it marked "Exhibit B" herein.

(Ordered.)

Q. How is "F" Street designated on this map?—A. It is designated by the mark "F."

Q. To your knowledge has "F" Street ever been opened beyond Ninth Street toward the south?—A. No. As far as the physical construction of "F" Street is concerned it terminates at Ninth.

Q. Since the making of this map has there been any extension of Ninth Street toward the south?—A. There has not.



Q. There is no "F" Street beyond First?—A. "F" Street does not extend to First; it terminates at the brow of the hill.

Q. It does not extend quite to First?—A. No.

Q. How does "F" Street divide the town?—A. Midway, east and west.

Q. Mr. Thompson, did you have anything to do with the use of automobiles in the election of 1918?—A. Well, I can not say that I had, except in this respect: I was a member of the Republican organization that had charge of the campaign; and as a member of the committee took under consideration the matter of using automobiles. It was decided that the only proper use of automobiles in an election would be for the purpose of bringing out the vote by furnishing automobile transportation to those who would otherwise be unable to reach the polls on account of the distance and weather, etc.

Q. You did not personally run an auto?—A. No; I did not.

Q. For what purpose was the automobile used?—A. For the purpose of getting the Republican vote out.

Q. To get the vote out that you knew was Republican?—A. Yes.

Q. No member of your party had out autos for the purpose of influencing votes?—A. No. No one so far as my connection with the matter was concerned, or my knowledge of it extends. The sole purpose of the automobiles was to bring to the polls Republican voters, especially women, living at a distance, who otherwise would have to walk in inclement weather. No one sought to influence votes, nor would I suppose a voter would be so influenced. No one was asked about his or her vote, to my knowledge.

Q. The sole purpose was to get out the Republican vote?—A. Yes.

Q. You say that the street named "F" divides the town of Anchorage about midway?—A. Yes.

Q. Is it not a fact that there are a number of citizens beyond Ninth on unplatted ground; that is, acreage?—A. Yes. I do not know how many. There are a number of people reside in the vicinity of C Street, south of Ninth.

Q. How many?—A. I do not know; perhaps 10 or 15.

Q. "F" Street divides the town of Anchorage about equally, and into voting precincts Nos. 1 and 2?—A. Yes.

Q. Autos could have been used without your knowledge for the purpose of influencing votes?—A. Yes they could have been.

Q. Did you pay for the rental of the auto?—A. I did not.

Q. Who did pay for the autos?—A. I could not say. I do not know.

ARTHUR G. THOMPSON.

Subscribed and sworn to before me this——day of November, 1919.

[SEAL.]

CARL ALMY.

My commission expires Aug. 12, 1922.

This is to certify that Arthur G. Thompson, the witness whose testimony is set forth in the foregoing deposition, appeared before me, a duly qualified notary public in and for the Territory of Alaska, at the time and place in this deposition stated, and after being first duly sworn to tell the truth, the whole truth, and nothing but the truth, was then and there interrogated touching the matters and things in issue in this contest, by the persons representing the contestant or the contestee in said deposition stated, and that the interrogatories propounded to said witness and the answers given by said witness to said interrogatories, together with the objections of counsel representing the parties to his cause are truly set forth in said deposition.

That I caused said deposition to be taken and transcribed by Mrs. Isabel Nelson, a stenographer, and when completed, said deposition was read by said witness, and by him corrected, and that said witness then signed the same and swore that said deposition was true.

That the exhibits referred to in said depositions are attached hereto, or accompany this deposition, together with all notices, and stipulations, taken and filed with me in the case.

In witness whereof I have hereunto subscribed my name and affix my official seal this 26th day of November, 1919.

[SEAL.]

CARL ALMY,

*Notary Public, Territory of Alaska, residing at Anchorage.*

#### STIPULATION.

It is hereby stipulated and agreed by and between Sherman Duggan, representing the contestant, and Thomas Price, representing the contestee, that the

testimony of Arthur G. Thompson, a witness produced on behalf of contestant in rebuttal, may be taken before Carl Almy, a notary public in and for the Territory of Alaska, at the office of Arthur G. Thompson, in the town of Anchorage, Alaska, on the 25th day of October, 1919.

SHERMAN DUGGAN,  
Attorney for contestant.  
THOS. C. PRICE,  
Attorney for contestee.

CONTESTANT'S EXHIBIT B.—Official map of the town of Anchorage. (Omitted in printing.)

PROCEEDINGS OF THE ALASKA TERRITORIAL CANVASSING BOARD, COMPOSED OF THOMAS RIGGS, JR., CHAIRMAN, CHARLES E. DAVIDSON, C. D. GARFIELD, HELD JANUARY 30 TO APRIL 17, 1919, GENERAL ELECTION OF NOVEMBER 5, 1918.

THURSDAY, JANUARY 30, 1919.

The canvassing board met at 2.15 p. m.

Present: Gov. Riggs (chairman), Surveyor General Davidson, and Acting Collector of Customs Garfield.

The board thereupon proceeded to organize for the purpose of canvassing the votes cast in the election of November 5, 1918.

The CHAIRMAN. The law providing for the meeting of the canvassing board is in conflict with the days of election. It was originally—

Mr. GARFIELD (interposing). I noticed that in looking it up.

The CHAIRMAN (continuing). It was originally called for October, but that was when the election was in August, and it was afterwards changed. I have here an opinion of the Attorney General, stating in substance that to make the count within the time limit, as contemplated by the old board, the meeting must be held before the 31st of January. I don't know whether you want to read that letter or just simply put it in the record.

Mr. GARFIELD. What is that based on?

The CHAIRMAN. I better read it [reads opinion]:

DECEMBER 26, 1918.

HON. THOMAS RIGGS, JR.,

Governor of Alaska, Washington, D. C.

MY DEAR GOVERNOR: Referring to our conversation of recent date with reference to the date of meeting of the canvassing board for the purpose of canvassing the votes cast at the last general election held November 5, 1918, for the election of a Delegate from Alaska and other Territorial officers, I have to say:

That the act of May 5, 1906, entitled "An act providing for the election of a Delegate to the House of Representatives for the Territory of Alaska," provided that the election for said Delegate should be held on the second Tuesday in August of each year in which a general election was held. The act also provided that the canvassing board should meet to canvass the votes cast for Delegate to Congress within 10 days after the third Tuesday in October.

The act of August 24, 1912, which granted to Alaska a legislative assembly, changed the date of election of Delegate to Congress from the second Tuesday in August to the first Tuesday after the first Monday in November. The act of August 24, 1912, however, failed to provide for a corresponding change in the meetings of the canvassing board, so that there is no law fixing the date of meeting of the canvassing board in Alaska except the old law fixing the date of meetings within 10 days after the third Tuesday in October, which is inoperative, since the date of election was changed and repealed by implication.

Two years ago this matter came before me in the form of a communication from Gov. J. A. F. Strong, and I advised him to call a meeting of the canvassing board for a date which would be approximately the same length of time after the late of election as the length of time after the date of election provided under the act of May 7, 1906, when the election was held in August. That is to say, when the election was held on the second Tuesday in August, it had to be held on some date between August 8 and 14, inclusive. The third Tuesday in October could occur on any date from the 15th to the 21st, inclusive. October being the second month after the date of election, as formerly held, applying the same rule to the elections as now held, the canvassing board would meet within 10 days after the third Tuesday in January following election. As to this particular election, the third Tuesday in January occurs on the 21st of

January. Within 10 days thereafter would be on or before January 31, 1916. This would result in the canvassing board's being called about the same length of time after election as it provided by law it should be called before the date of election was changed. As I said before, however, there is absolutely no law applicable; as far as the legality of the matter is concerned, it is practically a matter of gubernatorial discretion when the meeting of the canvassing board should be called.

(Signed) GEORGE B. GRIGSBY.

I thought, however, it was best to comply with the spirit of the act as to the length of time between the election and the calling of the canvassing board, so that there will be no criticism or comment, and for that reason I have called the canvassing board together to-day for the purpose of at least organizing and laying out our work.

Mr. GARFIELD. What were your plans, Governor?

The CHAIRMAN I think we better organize and then hang up until I get some of this work off my desk. Will Wednesday the 5th suit you?

Mr. GARFIELD. I've got to get out my report, and that takes three or four days after the 1st of the month, and I'll lose a day on account of Sunday, so it will be just right.

The CHAIRMAN. The next meeting will be called on Wednesday, February 5, at 10 o'clock in the morning.

Shouldn't we invite candidates to be represented here by counsel?

Mr. DAVIDSON. Well, it's a good idea. Here's a letter that was put on my desk. I imagine that's just maybe what that it. We did it before. We invited them, telling them we were going to commence the count on a certain day. [Hands letter to chairman.]

The CHAIRMAN. This is a letter from Judge Rustgard and John B. Marshall, [reads letter]:

JUNEAU, ALASKA, *January 30, 1919.*

The TERRITORIAL CANVASSING BOARD,

*Juneau, Alaska.*

GENTLEMEN: The undersigned beg to advise you that we desire to be present during the canvass of the returns of the last general election in the Territory, representing James Wickersham and other Republican candidates.

We beg to suggest that no returns be opened except in the presence of the entire canvassing board and that no returns, after being opened, be handled by any person except in the presence of the entire canvassing board.

We also respectfully request that we be permitted to know at what time and times your board will be in session, in order that we may be present and be given leave to inspect the returns as tallied.

Respectfully,

JOHN RUSTGARD.  
JOHN B. MARSHALL.

The CHAIRMAN. In other words, they make the request that we don't do anything improper.

Mr. DAVIDSON. Well, of course, we'll do that to suit ourselves. If they want to be here, let them come here. It would be the deuce if we couldn't count the votes if one of them weren't here.

The CHAIRMAN. The inference being that some member of the canvassing board might tamper with the returns. Now, I think, in view of Judge Wickersham's speech in the House, stating that Judge Rustgard did not represent him here, that it might be well to wire Judge Wickersham, asking him if he wishes to appoint a representative—if he wishes to designate a representative.

Mr. DAVIDSON. Isn't Marshall his representative either?

The CHAIRMAN. I don't know. He says that they desire to be present during the canvass of the returns of the last general election, representing James Wickersham and other Republican candidates.

Mr. GARFIELD. Well, I suppose they are possibly representing Republican candidates—if they do not sign themselves as representatives.

The CHAIRMAN. It's a voluntary——

Mr. GARFIELD (interposing). Personal proposition.

The CHAIRMAN (continuing). Representation.

Mr. DAVIDSON. I would suggest that you do this—that you wire Mr. Wickersham and Mr. Sulzer and tell them we're going to commence counting on the 5th of February at 10 o'clock and if they wish to be represented we will be glad to have their men here.

Mr. GARFIELD. Isn't there a provision in the law that requires that the canvass shall be publicly made?

The CHAIRMAN. Publicly made.

Mr. GARFIELD. And is there any particular reference there that any of the candidates shall be represented by any one?

Mr. DAVIDSON. No.

The CHAIRMAN. I think, though, that we'd be glad to have any candidates represented.

Mr. GARFIELD. If you're going to notify one, why not notify all of them? And it's a practical impossibility to reach all the candidates on the tickets. I know you couldn't notify a lot of them in the second and the third, or fourth division, rather.

The CHAIRMAN. I think that is a very proper suggestion.

Mr. GARFIELD. I think there isn't any notice required that the canvassing board meets at any particular time, but if the meeting is publicly held and if anybody presents themselves here as representing any candidates, I don't see why we can't accept that; if they are just here as citizens, in their capacity as such, and desire to witness the affairs that are conducted by the board.

Mr. DAVIDSON. Last time Wickersham didn't have anybody here.

Mr. GARFIELD. Russell was in and out, purporting to watch the thing, in a way.

Mr. DAVIDSON. Yes; but there was probably a week that we didn't see him. It was a good deal that way with Sulzer's side. They would come in for a day and then be gone for three or four days. I would rather have all of them in. Let them see it.

Mr. GARFIELD. This communication is entirely incompetent, I should say, because they have this right under the law. I don't see why it is necessary for them to notify the canvassing board and suggest that certain things shall not be done which is contrary to the law if it were done. Furthermore, I don't see any reason why, if anything happened to one of the canvassing board, the other two shouldn't go right on and make the count.

The CHAIRMAN. Well, that is a matter we'll have to obtain an opinion on, I think. The only person that would be affected by death would be yourself, because in case of my death you are acting governor, and I don't know whether there could be an acting surveyor general appointed.

Mr. DAVIDSON. Oh, yes; they could do that. So I don't think there is anything in that; and so far as handling those returns is concerned, we'll handle those returns the way we want to handle them.

Mr. GARFIELD. The only thing I see to do with this communication would be to reply to them and say that the board will convene for the purpose of counting the votes on the 5th of February, at 10 o'clock, in the governor's office.

Mr. DAVIDSON. How would it be, Governor, to put a notice in the paper—give them a news item—that the board is ready to commence the count on the 5th?

The CHAIRMAN. And in replying to this letter state that the canvass will be open to anybody who can get into the room.

Mr. GARFIELD. How would it be to state that it will be publicly held?

The CHAIRMAN. Be publicly held. And that we will not recognize them as especially representing Judge Wickersham or other Republican candidates unless they present credentials.

Mr. GARFIELD. Do you think that is necessary? Does the law contemplate anything of that kind?

The CHAIRMAN. Does not contemplate; except as a matter of courtesy to—

Mr. GARFIELD (interposing). To the candidates?

The CHAIRMAN. Yes; to the candidates.

Mr. GARFIELD. Of course, if that course is indicated in the law. If not, why I don't think it's necessary. It simply says that the meeting shall be publicly held. I think all that will be necessary will be to notify them that we will convene on such and such a day for that purpose and that the meeting will be publicly held.

The CHAIRMAN. Does it say "publicly held"?

Mr. DAVIDSON. Yes; some place it says that it shall be publicly held.

Mr. GARFIELD. I remember reading it some place, too.

The CHAIRMAN. It says that the meeting shall be publicly made.

Mr. DAVIDSON. And anybody can come in. We can just reply to that as a joint letter and send the other fellow a carbon copy of it.

Whereupon the following letter was sent:

JANUARY 30, 1919.

HON. JOHN RUSTGARD,  
MR. JOHN B. MARSHALL,

*Juneau.*

GENTLEMEN: Your letter of January 30, addressed to the Territorial canvassing board, has been received and laid before the board.

The board begs to advise you that all meetings will be publicly held for the canvass of the votes cast at the last election of November 5, 1918, and that no meeting will be held without due notification. It is the purpose of the board to commence the canvass of the votes on Wednesday, February 5, at 10 a. m., in the office of the governor.

I beg to assure you that your suggestion that no returns be opened except in the presence of the entire canvassing board and that no returns be handled by any person except in the presence of the canvassing board, is one that the board would naturally comply with, and no other action would be taken under any circumstances.

Respectfully,

THOMAS RIGGS, JR.,  
*Governor, Chairman of the Canvassing Board.*

The CHAIRMAN. Is there any other business before the board?

Mr. DAVIDSON. I think that's all.

Mr. GARFIELD. I don't know of anything. I suppose we are organized.

The CHAIRMAN. With one exception. Now, the returns, after they have been received at this office, have been immediately sealed with my personal, private seal and a receipt taken from Mr. Davidson, and the returns put in his vault, as we have no fireproof vault in which to place them here. Now are those returns all to be brought up here?

Mr. DAVIDSON. I wouldn't bring them all; I'd bring them just as we can handle them. I should think that would be all that is necessary. Otherwise you will have a big stack laying here.

The CHAIRMAN. I suggest that you send up on Wednesday, the 5th, the returns from the first division. If we can't get through with those, we can take half of that number, at least, and put them in the office safe.

Mr. DAVIDSON. We wouldn't be able to get through with the first division in a day. Now, how about the time of holding the meetings? How will it be to have them from, say 10 to noon and 2 to 4, so that it will give us a chance to do some work on the outside?

The CHAIRMAN. Ten to noon, 2 to 4. That is satisfactory to me.

Mr. DAVIDSON. That will give us all a chance to get back before our offices close.

The CHAIRMAN. Is there anything else?

Mr. DAVIDSON. That's all I can think of.

Mr. GARFIELD. I think it would be proper to move that the board adjourn, then, to meet in the morning of February 5, to continue the——

The CHAIRMAN (interposing). To commence the canvass of the votes.

Mr. DAVIDSON. How would it be to say that we continue this? This is our first meeting. We don't adjourn. We can adjourn from time to time; so we'll simply adjourn until the 5th to continue then, so the record will show that we commenced.

The CHAIRMAN. Yes.

Mr. DAVIDSON. So we are practically in session all the time.

Mr. GARFIELD. Then, I'd change that motion. I'd move that this session be continued until 10 o'clock the morning of February 5 at this place.

Mr. DAVIDSON. All right.

The CHAIRMAN. It is so ordered.

WEDNESDAY, FEBRUARY 5, 1919.

The canvassing board met at 10.15 a. m.

Present: Gov. Riggs (chairman), Surveyor General Davidson, and Acting Collector of Customs Garfield; John B. Marshall and John Rustgard, representing James Wickersham and other Republican candidates, and J. A. Hellen-thal and J. R. Winn, representing Sulzer.

The CHAIRMAN. Just for a matter of inquiry, I have here a letter from John Rustgard, signed by John Rustgard and John B. Marshall, stating that they represent James Wickersham and other Republican candidates and suggesting—[reads letter on page 3 of record].

I'd like to know, Judge Rustgard, if you have been asked by Judge Wickersham to represent him?



Mr. RUSTGARD. Yes, Governor; I have been asked by Judge Wickersham to be present at the time of the canvass and make the necessary observations and report them.

The CHAIRMAN. Would you submit your authorization as a part of the record?

Mr. RUSTGARD. No; the communication—the request I refer to is set out in a communication which contains other matter, so for that reason I wouldn't care to file—entirely private matters.

The CHAIRMAN. You have, though, a request from Judge Wickersham to be present and look after his interests.

Mr. RUSTGARD. Yes.

The CHAIRMAN. I'd like to have that as a matter of record on account of something of a controversy that has been going on on the floor of the House. I know that, in an informal manner, Mr. Hellenthal has been asked to represent the interests of Mr. Sulzer in the same way. We'll be glad to show every courtesy to the representatives of either candidate. I will state, however, that it was hardly necessary, in this letter, to call the attention of the canvassing board to the possibility of their taking any steps that would be improper in the canvass of these votes. The board is bound by oath of office, and no matter what their political opinion might be, they would not, in any way, attempt to violate a solemn oath.

I have here a rather knotty little problem, contained in a telegram dated at Nome, Alaska, from Barney Gibney, stating:

"Section 2, chapter 27, session laws, 1915, provide for road commissioner, this office, March 1. Returns Nome show me elected commissioner second division, plurality 13 votes. Account quarantine, have not gone out from Nome. Will canvassing board wait for Nome returns to reach Juneau? Should I qualify before canvassing board acts or before March 1?"

"PARNDEY GIBNEY."

The law provides, as I understand it, that the certificate of the clerk of the court may be used when returns have not reached the board, but owing to the influenza epidemic and the quarantine, there seems little possibility that the returns will reach Juneau before March 1, as I am also in receipt of a telegram from Dr. Neuman, the assistant commissioner of health, as follows:

"The quarantine on mails will be lifted on February 15. Exchange mails will take place near infected districts. The mail carriers will carry masks and keep dogs apart. The carriers from uninfected districts forbidden to enter infected places and carriers from infected districts travel only to point of exchange at the same time travel is forbidden. This applies to all second division.

"NEUMAN."

In the matter of the Delegate, why, that doesn't make so much difference. The certificate of the clerk of the court will probably be here before the extra session of Congress is called or before it is necessary to give a certificate to one of the candidates. But here the law provides that these men should take office on March 1. I think this is a thing we will have to ask an opinion on.

Mr. GARFIELD. Barney is that?

The CHAIRMAN. Yes, Barney; it's marked "Parndey."

Mr. DAVIDSON. Not only his, but all of these legislators. They have got to commence on March 1.

The CHAIRMAN. Yes.

Mr. DAVIDSON. It won't be over until the 15th?

The CHAIRMAN. Fifteenth.

Mr. GARFIELD. The best they could do would be the middle of March before they could get here.

The CHAIRMAN. Forty days is the average time for mails to come through.

Mr. GARFIELD. Got to figure on 40 days.

The CHAIRMAN. And that's from the coast. You've got to figure on four days from Valdez.

Mr. GARFIELD. Forty days and forty nights.

The CHAIRMAN. Well, the attorney general will be here on the *City of Seattle*. I understand, and I think it is a question which we can very well put up to him upon his arrival.

Mr. GARFIELD. We've got lots of time to put it up to him.

The CHAIRMAN. For the benefit of those who were not here at the first meeting of the canvassing board, I may state that the board was called together

simply to organize and map out a mode of procedure, and that the returns were not brought into the office in any way. It was explained to Mr. Garfield, the acting collector of customs and a member of the board, that the returns had been received in this office, according to the law, and were immediately sealed with my private seal, without being opened, and forwarded to the secretary of the Territory for safekeeping in his vault, there being no vaults in this office and the safe being too small to contain the returns.

This opinion of Gen. Grigsby's has already been made a part of the record, regarding the time of calling the meeting. Here is the list of receipts signed by you [to Davidson] for all the returns received to date.

These are the certificates of the new voting precincts, which we will reach as we come to them; the oaths of the judges of election for McGrath voting precinct and of the judges for Franklin and Flat voting precincts.

Mr. DAVIDSON. I would suggest that those be put over until we come to them.

The CHAIRMAN. Come to them; yes. I think we can proceed now with the tally of the votes.

(Mr. Fox opens a package of election returns under seal.)

The CHAIRMAN. This is the Ketchikan voting precinct.

Mr. DAVIDSON. Here is the certificate of election, properly signed by the judges. Now, here is some challenged oaths.

The CHAIRMAN. I think that's Keeney, isn't it?

Mr. GARFIELD. I think that's what——

The CHAIRMAN. Kelly.

Mr. GARFIELD. Couiter. Here's a sample ballot. There's always a chance that somebody is entitled to a ballot in those. It's up to us to look over those ballots.

The CHAIRMAN. What do we do with these unvoted ballots?

Mr. DAVIDSON. Oh, just file them in here. We have always put everything that was with them right back into the returns. Some of these judges had to make a ruling on ballots like that. They'll say that they're spoiled, and, as a matter of fact, they're not. We don't count the ballots at all; we have to take them as they are.

The CHAIRMAN. That is a sample ballot [exhibiting].

Mr. GARFIELD. And this—they evidently figured this as a blank, although there are two men voted for.

Mr. DAVIDSON. I think those fellows intended that vote to be cast, and it don't matter whether they vote for all the rest of them or not——

The CHAIRMAN. Well, it can't be counted, because there are two men voted for for the same office.

Mr. DAVIDSON. You'll find that there's a number of them where the cross is not placed right. That's the point I was making—whether that cross is in that part [pointing] or on this side. You'll find it probably through this that there are a number of those, and we'll have to make a ruling on that.

Mr. GARFIELD. I wouldn't think that so long as the intention of the voter was plainly indicated; regardless of where the cross was placed, I should think it would be a good vote.

Mr. DAVIDSON. We always counted those. Whether it was sound or a fellow had made a mistake could be proved by anybody who looked at that ballot. You can see who he intended to vote for.

The CHAIRMAN. Yes; I think that where the intent is plainly expressed, we can count it, provided that the ballot is otherwise in proper form.

Mr. GARFIELD. Provided it is on the official ballot. This fellow has expressed his intention very plainly, but it is not on the official form of ballot.

Mr. DAVIDSON. Well, I move you, Mr. Chairman, that where ballots are not marked in the proper squares, in front of the name, whether crosses appear after the name——

Mr. GARFIELD. Say to the left of the name. I suggest——

Mr. DAVIDSON. Yes; wherever they appear, instead of to the right of the name; instead of in the proper squares——

The CHAIRMAN. Right of the name.

Mr. DAVIDSON. And that where the intent of the voter is plainly shown, that they be counted.

The CHAIRMAN. Provided it is on the official ballot.

Mr. GARFIELD. Provided the rest of the ballot is all clear.

Mr. DAVIDSON. I second that motion.

The CHAIRMAN. That motion is carried.

Mr. DAVIDSON. Because we'll have that coming up a lot and we might as well get it settled.

The CHAIRMAN. Ought we skin over the other ballots and see whether they're all right?

Mr. DAVIDSON. No; I think that would take up a lot of time. That's not within our province.

Mr. GARFIELD. But a matter of this kind is.

Mr. DAVIDSON. We have a perfect right to look over the ballots.

The CHAIRMAN. Those are all sample—official ballots probably.

Mr. DAVIDSON. As far as these challenges are concerned, it is not up to us. They have sworn in their ballots; so I don't think it is up to us.

The CHAIRMAN. Have you any suggestion or comment to make, Judge Rustgard, Judge, Judge Hollenthal?

Mr. HELLENTHAL. No.

Mr. DAVIDSON. You see, we'll find these challenges, but that's not up to us. I don't see how we can act on it. We'd have to go into it and hold a hearing to settle it. He swears he has a right to vote and then it would be up to Congress.

The CHAIRMAN. I think it is up to the local court.

Mr. DAVIDSON. There'd have to be a hearing.

The CHAIRMAN. We can't determine the qualifications of a voter.

Mr. MARSHALL. I think I would like to take a memorandum of these votes which are sworn in.

Mr. DAVIDSON. Well, we can make a record. The following were challenges and swore in their votes: Wm. J. Coulter; Charles—What is that? Standish? No. What do you call it, Charlie?

Mr. GARFIELD. Standish; no.

The CHAIRMAN. Starish. E. G. Keeney, Mrs. E G Keeney, Mae Ragan, Fred Chapman, and Amel Polson.

Shall we make a record of those who are rejected—challenged and rejected?

Mr. DAVIDSON. We can do that; we might as well have—

Mr. MARSHALL. I don't care about it personally.

The CHAIRMAN. James Kelly, challenged and rejected; J. C. Cocheron, challenged and rejected.

Mr. DAVIDSON. Now, the registration book is in the returns, and all the certificates of election are properly signed.

The CHAIRMAN. Properly signed by the judges.

Mr. GARFIELD. And the tally book properly signed by the judges of election. Signed by the judges and clerks.

Mr. DAVIDSON. Now, the next thing for us is to—we checked those [indicating].

#### JUNEAU NO. 1.

(Returns opened and checked.)

The CHAIRMAN. Here, for instance, is a ballot in point, marked on the wrong side. I don't suppose you want to reject that one.

Mr. RUSTGARD. You have passed your resolution.

The CHAIRMAN. Any challenges?

The CHAIRMAN. Won't we have to put the name down?

Mr. GARFIELD. Oh, yes.

Mr. DAVIDSON. Here is the certificate of election. Certificate seems to be proper. Two certificates of election properly signed, registration book with proper certificates.

The CHAIRMAN. Here is one ballot here where a man has voted for six representatives; here is another one where a man has voted for five representatives. That is marked in that column "Not counted." I suppose that means that that part of it is not counted.

Mr. DAVIDSON. They couldn't tell which representatives to count it for.

The CHAIRMAN. There is another one voted on the wrong side.

Mr. DAVIDSON. There'll be a lot of them like that.

The CHAIRMAN. That's three I found. There is another one not counted; not counted for Delegate and not counted for Territorial representatives—made the cross up on top.

Mr. RUSTGARD. Counted for senator and road commissioner evidently.

The CHAIRMAN. Counted for senator and road commissioner. These all seem to be in order, Judge [to Mr. Rustgard]. The only one he left off there is Wickersham and Shepard.

Any challenges?

Mr. DAVIDSON. No challenges.

The CHAIRMAN. Another one that voted on both sides; that is, voted in the wrong column. Not counted. Voted for Connolly and Sulzer. Here's a blank ballot.

Mr. DAVIDSON. Wholly blank?

The CHAIRMAN. That checks two blank ballots. The rest of them all seem to be in order.

Mr. DAVIDSON. This is the tally book, properly signed. Seem to be no rejected votes.

The CHAIRMAN. There has evidently been a tally erased, but as it is for Arness, who by no possibility is elected, I think it might be overlooked.

Mr. DAVIDSON. The tally is there, all right. Some fellow may have done that to check back and see——

The CHAIRMAN. Yes.

Mr. DAVIDSON (continuing). For himself.

The CHAIRMAN. I make the count 258. I think that there is something off in this precinct. Here's one that's not counted.

Mr. DAVIDSON. Not counted at all?

The CHAIRMAN. Wasn't counted at all.

Mr. DAVIDSON. What's the matter?

The CHAIRMAN. For the reason that five were cast for Territorial representatives; we'll have to count that one, I think.

Mr. DAVIDSON. We have to count those that are entitled to it.

The CHAIRMAN. That are entitled to it. Here is another one rejected for the same reason. It makes a difference of two for Territorial senator and five for representative.

Mr. DAVIDSON. Those ballots should be counted; no question about it. They're always good.

The CHAIRMAN. Here is one blank ballot. That makes a check on the total number of ballots cast.

Well, will somebody make a motion about these ballots?

Mr. DAVIDSON. Well, I'll move you that these ballots be counted so far as they are legal.

Mr. GARFIELD. What do you mean by that?

The CHAIRMAN. So far as they apply?

Mr. DAVIDSON. Yes; so far as they apply; there being on each one of the ballots having voted for five Territorial representatives, the representative can not be counted, and the others should be counted.

The CHAIRMAN. Is that your [to Mr. Garfield]——

Mr. GARFIELD. Yes.

The CHAIRMAN. Motion carried.

Then, in addition, I suppose we ought to mark this on the tally book.

Mr. DAVIDSON. Yes; let's tally that, Charlie.

Mr. GARFIELD. Well, that makes a total of two more votes.

The CHAIRMAN. That makes one more vote for Wickersham.

Mr. GARFIELD. No; I mean on the total.

The CHAIRMAN. No! No! No!

Mr. GARFIELD. The total number of ballots cast.

The CHAIRMAN. They are counted as the total ballots cast, but they are not included. Wickersham, 1; for Territorial senator, Britt, 1; for road commissioner, Jack Wilson, 1; for Sulzer, 1; Britt, 1; for road commissioner, Wiley, 1.

Mr. GARFIELD. This makes 121; this makes Wickersham, 133; Britt, 2; Wiley, 107. Let's see what sort of note we want to put on here.

The CHAIRMAN. Put in here "Two ballots."

Mr. GARFIELD. Probably we better signify each one separately.

The CHAIRMAN. Well, one ballot——

Mr. GARFIELD. On account of——

The CHAIRMAN (continuing). Which had been rejected by the judges, counted for Delegate, senator, and road commissioner.

Mr. GARFIELD. Does that want to be put on here?

The CHAIRMAN. Rejected so far as Territorial representatives are concerned, because there are five representatives voted for instead of four. The same applies to the second ballot. One blank ballot not counted at all.

Mr. HELLENTHAL. Charlie, where you make that addition, put your initials on it.

Mr. GARFIELD. I'll put the initials on it, "C. D. G."

The CHAIRMAN. Total number of ballots case is 261; dropped in the box. You can't tell anything by the way they vote.

Mr. GARFIELD. No; that's not right.

The CHAIRMAN. There it is; total number of ballots cast.

Mr. GARFIELD. Oh, yes; that's right.

The CHAIRMAN. Properly signed by the judges of election. Challenged oaths and sworn in: F. A. Aldrich, Mrs. George Troy, is it?

Mr. GARFIELD. Challenged ballots sworn in.

Mr. DAVIDSON. I guess we'll have to look it up.

Mr. GARFIELD. That isn't McEvoy, is it?

The CHAIRMAN. Mrs. George Levy, I guess it is. Mrs. T. P. Smith, Mrs. H. Murphy. I see no need of any being turned down.

#### JUNEAU NO. 3.

Mr. GARFIELD. I would suggest, in opening these, why not slit the envelope right in here and leave the seals intact.

Mr. FOX. Yes; that would be a good scheme, too.

Mr. DAVIDSON. Two certificates of judges of election properly filled out, 1 tally book properly filled out, and a registration book.

The CHAIRMAN. Two ballots here not counted. "New ballot given to voter."

Mr. DAVIDSON. They're given a new ballot; spoiled the ballot.

The CHAIRMAN. That fellow scratched a name out. He intended to vote, but scratched the name out.

Mr. DAVIDSON. He had somebody talking to him about scratching his ticket.

Mr. RUSTGARD. The intention seems clear as to whom he wished to vote for for Delegate. All the names are scratched except Wickersham's; for representative, all names are scratched except Connors, McCormick, Sowerby, and White; for road commissioner all names are scratched except Wiley.

Mr. HELLENTHAL. That ballot wasn't received at all, I understand. They gave him a new one.

The CHAIRMAN. That doesn't check up with the number of ballots. There are 97 ballots here and 2 ballots here, and the number of voters on the registration list is 99; so there's a discrepancy of two in the number here and the number there. [To Davidson:] I'll ask you to count those.

(Ballots counted with assistance of Mr. Garfield.)

Mr. DAVIDSON. Ninety-eight.

The CHAIRMAN. Well, that checks out, then; and this one makes 99. That makes it right. I made a mistake of one.

Now, about this ballot. It is clearly improperly drawn, but the voter, the intention of the voter seems to be indicated.

Mr. DAVIDSON. It looks that way to me, too.

The CHAIRMAN. I suggest that that ballot be counted.

Mr. DAVIDSON. I agree with you there. I think that is plainly indicated. We found a lot of them like that last year.

The CHAIRMAN. What did you do?

Mr. DAVIDSON. We counted them.

Mr. GARFIELD. Does it require a motion?

The CHAIRMAN. Requires a motion.

Mr. GARFIELD. Then I move you, Mr. Chairman, that this vote wherein the name intended to be voted for—candidate intended to be voted for—are not crossed out, whereas the opposing candidates are so erased, be counted as indicating the intention of the voter, it being shown that the proper number of candidates for each office are voted for.

(Mr. Hellethal studies over ballot.)

The CHAIRMAN. Any comment to make, Judge?

Mr. HELLENTHAL. I don't know; that is pretty hard to say much about.

Mr. DAVIDSON. I guess it carried then, huh?

The CHAIRMAN. The board will count this ballot.

Mr. HELLENTHAL. The theory is that a man can, by voting in a specified way, can so identify his ballot that it can be determined who he voted for, and they usually reject ballots that are so marked, even if the voter's intention is clear, as when ballots are counted, somebody can stand over the judges and see whether the voter indicated the man that he probably bought or secured him to vote for that particular ticket—voted that ticket; and that ballot might come under that head. That man might make his ticket in a particular way



other than provided by law. Otherwise, there is nothing wrong about that ballot. I don't know whether they have ballots of that particular description, but where there is something out of the ordinary and the ballot is marked in some way other than provided by law, it is thrown out on that theory—that he may, might put some peculiar mark on the ballot so that the ballot could be identified as his ballot.

The CHAIRMAN. Doesn't our law cover that?

Mr. HELLENTHAL. I'm not sure. I think that the law provides that the ballot must be marked with a cross in front of the candidate.

Mr. GARFIELD. But there being only one ballot in the precinct like that, it wouldn't hardly—

Mr. HELLENTHAL. That's what I mean—if there were only one ballot marked that way. Suppose that I went and secured him to vote for me, and I wasn't sure whether he voted for me or not. I could read that and find out. There being only one ballot, you could come back at me and say "There's my ticket."

Mr. DAVIDSON. Well, if they can do that, they can very easily do it by just putting a check mark on the ballot. That throws it out. But there don't seem to be any possibility of any fraud in this.

Mr. HELLENTHAL. I don't think that this is that kind of ballot, but they throw them out on that kind of theory.

The CHAIRMAN. The judges evidently were following out the letter of the law and probably properly threw it out.

Mr. HELLENTHAL. Yes; I rather think so.

The CHAIRMAN. But I think that the intent of the man is evidently shown there.

Mr. HELLENTHAL. I guess the canvassing board is correct in saying that this fellow intended to vote that way; I guess there's no doubt about that.

The CHAIRMAN. Well, being only one in one of our greatest precincts, I think we'd be perfectly justified in counting that ballot.

Mr. DAVIDSON. If there was any more of them, I would say "throw them all out," if there was any number of them where it would indicate that there was something of that kind and any chance of fraud being committed.

Mr. GARFIELD. I move that we take a recess.

(Adjournment taken until 10 a. m., February 6, 1919.)

THURSDAY, FEBRUARY 6, 1919.

The board met at 10 a. m., pursuant to adjournment.

#### SHEEP CREEK.

Mr. DAVIDSON. Here is the registration book signed by three judges, but there are no clerks signed. Probably a mistake. One of these should sign as clerk.

The CHAIRMAN. Who are the judges?

Mr. GARFIELD. Clerks didn't sign their oath.

Mr. DAVIDSON. I guess they just had three.

Mr. MARSHALL. I think, outside of incorporated towns there are only three.

Mr. DAVIDSON. One of these should have signed the oath here [indicating].

The CHAIRMAN. These are three judges.

Mr. DAVIDSON. Yes; they don't have the full five.

Mr. MARSHALL. How they are designated I am unable to say, but I know that they don't have five.

The CHAIRMAN. "Section 397: The judges of election of each voting precinct shall constitute the election board for said precinct and shall supervise and have charge of the election therein. They shall secure and provide a place for holding the election and a suitable ballot box. They shall pass upon the qualification of the voter and, if he be found qualified, receive and deposit his ballot in the ballot box, and shall canvass and make a return of the votes cast, as hereinafter provided \* \* \*. That two of the three judges of election in each voting precinct, outside of incorporated towns, to be selected by the majority of said judges, shall also perform the duties of clerks of election for that precinct."

Mr. DAVIDSON. Well, they have signed this right, because they are designated as judges, but they act as clerks. So this registration book is in proper form.

The CHAIRMAN. One rejection there, I notice.

Mr. DAVIDSON. Duplicate tally register with oaths properly signed.

The CHAIRMAN. One hundred and seventeen and 2; that would be 119 votes cast. Now, here is a note: "Inclosed ballot has not been considered in the final result by reason of having been adjudged totally blank."

Mr. DAVIDSON. One of these same things.

The CHAIRMAN. One of those same things.

Mr. DAVIDSON. I move that that ballot be counted.

The CHAIRMAN. As showing the intent of the voter.

Mr. DAVIDSON. As showing the intent of the voter.

The CHAIRMAN. Although all the names are scratched off except those that he evidently intended to vote for. That is a parallel case with yesterday's.

Mr. GARFIELD. I second the motion.

The CHAIRMAN. On account of that precedent established yesterday. Then I'll give you the vote as shown on this ballot.

Mr. DAVIDSON. Say, Charlie, we have another one there that would be——

The CHAIRMAN. This is the rejected ballot of O. T. Thorensen, No. 72, by reason of not having resided in the precinct 30 days. This ballot challenged by M. O. Peabody, judge of election, and shown to have been included in the final total. Now, before we open that, I suggest that we act on it, as I noticed yesterday that perhaps we seemed more interested in knowing who the ballot was for. That was the prime consideration, and so I suggest that we——

Mr. GARFIELD (interposing). Act on a principle.

The CHAIRMAN (continuing). Act on a principle rather than on what the ballot shows.

Mr. GARFIELD. I think that is the best way to do it, too.

Mr. DAVIDSON. Well, of course, the worst trouble is——

The CHAIRMAN. I think it is clearly shown by the instructions of the attorney general that the voter should be in the precinct 30 days. [Reads:]

"Any person of the age of 21 years or more, who is a citizen of the United States, who has lived in the Territory of Alaska 1 year and in the judicial division in which he or she offers to cast his or her vote 30 days immediately preceding such election, shall be entitled to vote at all elections held therein."

Mr. DAVIDSON. Governor, there is a newer law on that, and if they are not at their home place, they can vote at another.

The CHAIRMAN. This was sent out—I believe this regulation was sent out by the attorney general of the Territory before the election and printed on all the registration books.

Mr. DAVIDSON. That is the general law, but there is another law that covers it. For instance, Sulzer himself didn't vote in his precinct. He voted over at——

Mr. GARFIELD (interposing). Ketchikan.

Mr. DAVIDSON (continuing). Ketchikan. He had a perfect right to.

Mr. GARFIELD. I noticed in the returns from Ketchikan, canvassed yesterday, parties who were residents of Juneau temporarily residing in Ketchikan.

The CHAIRMAN. Had they been 30 days before the——

Mr. GARFIELD (interrupting). I don't know. They would be in the division.

The CHAIRMAN. In the division, but had they been in the precinct?

Mr. GARFIELD. I don't know that.

The CHAIRMAN. Now, for instance, I know that, in discussing this matter with the Attorney General some time ago, he stated that although he had been, at the time of the election, 30 days in the fourth division—in the third division—no, he had not voted

Mr. DAVIDSON. He would have to be in his own division. For instance, I notice that they held that fellow Klops (?); last year Clops started out from Fairbanks and went out of the Fairbanks division, the fourth division, and went into the third division and voted, but they held that he had no right to vote because he wasn't in his own division. If he had stopped at a road-house a mile or two back, he would have had a right to vote because if he goes into another division he has to serve his time. I wonder what that act is.

The CHAIRMAN. You mean the Territorial law or the——

Mr. DAVIDSON. Yes, Territorial law. There is a different act.

Mr. GARFIELD. I see that this law in the back States "division" and not "precinct." [Reads:]

"Any person of the age of 21 years or more who is a citizen of the United States, who has lived in the Territory of Alaska one year and the judicial division in which he or she offers to cast his or her vote 30 days immediately preceding such election, shall be entitled to vote at all elections held therein."

That wouldn't apply to the case I had in mind because the parties were residents of the division.

The CHAIRMAN. Now, the question is, has this O. T. Thorensen been a resident of the division?

Mr. GARFIELD. I don't know.

The CHAIRMAN. He is in the registration book.

Mr. DAVIDSON. He made an oath, though.

The CHAIRMAN. No, he didn't.

Mr. DAVIDSON. He'd have to swear it in.

The CHAIRMAN. He didn't swear it in.

Mr. GARFIELD. Evidently the ballot wasn't challenged.

The CHAIRMAN. The ballot was challenged, it shows there, and rejected.

Mr. DAVIDSON. How'd they know? How did they come to give him a ballot? I suppose they gave him a ballot and then it was challenged and then they held the ballot out; didn't put it in the books. [Reading over law.] This says "precinct 30 days."

Mr. GARFIELD. The law says division.

The CHAIRMAN. Now, the question is whether he was in the division, too.

Mr. DAVIDSON. I think this is a question we'll have to put up to the attorney general, because that may cover a number of cases and we'll leave that unopened until he can decide the point.

Mr. GARFIELD. Then, I suggest, Mr. Chairman, that we set these returns aside for the present and take them up as soon as we can get advice on the subject.

The CHAIRMAN. I think that is a good suggestion.

Mr. DAVIDSON. Yes, I wouldn't wonder. Now, let's see, we want to remember about that. Hadn't we better mark that on the envelope.

The CHAIRMAN. Should we canvass those that are not—

Mr. DAVIDSON (interrupting). I think we better leave the whole thing and make one job of it.

Mr. GARFIELD. Then we won't get it all mixed up.

The CHAIRMAN. Mr. Fox, will you seal up the entire returns with new seals?

Mr. DAVIDSON. In that case, it seems like it is going to be hard to determine whether he was a resident of the district.

Mr. GARFIELD. No; I think we shall have to take the returns as they come in.

The CHAIRMAN. I think that we'd have to take the certificates of the judges of election, except when they are brought to our notice this way; because here we can't be the judge of every voter in every precinct.

Mr. DAVIDSON. Well, I think, under the law, that a fellow has got a right to vote if he has been in the division 30 days and has the other qualifications. I believe he has a right to vote. For instance, we'll say that he was simply a resident of Juneau and should have voted here and wanted to vote at Thane. I think he has a right to vote at Thane under the law. Did you find that, Governor? Did you find that section in here?

The CHAIRMAN. No; I didn't.

Mr. RUSTGARD. The organic act says that a voter must have resided in the precinct 30 days, and the legislative Territorial act of 1913 provides that he may vote in any precinct in his judicial division.

Mr. DAVIDSON. Yes; if he has otherwise lived up to the provision that he has been a year in the Territory and 30 days in the division.

Mr. GARFIELD. Is it your opinion, then, Mr. Rustgard, that the words "precinct" and "division," so far as the purpose of this is concerned, are synonymous?

Mr. RUSTGARD. Why, I wouldn't care to express an opinion, Mr. Garfield, because that is up to the attorney general so far as advice to the board is concerned.

Mr. GARFIELD. Just asked for your personal opinion; that is all.

#### SITKA PRECINCT.

Mr. DAVIDSON (going over books). No place where they are registered, at all, is there? What do those things say over there?

The CHAIRMAN. Here is where one F. C. Sheridan swore in his vote. There is nothing there but the blank register—no certificate.

Mr. DAVIDSON. There is no tally here; nothing but the ballots.

The CHAIRMAN. I think we'll have to place this aside until we see whether it has been included in another envelope, or whether the original and duplicate have been sent to the clerk of the court.

Mr. RUSTGARD. These returns contain no certificate of results; no register.

The CHAIRMAN. Contains nothing but the official ballots cast and one oath, certificate of qualification—oath of qualification. Certificate of election of judges when original appointees fail to appear and qualify. Evidently, one of the judges didn't appear and qualify, and Mr. F. C. Sheridan qualified. That's all we have. I think we will have to lay this aside for the time being.

Mr. GARFIELD (to Mr. Fox). Make a note on the outside of those what precinct they are and the purpose for which they had been resealed.

#### CRAIG PRECINCT.

Mr. DAVIDSON. Registration book properly certified; one tally book properly filled out and certified.

The CHAIRMAN. A hundred votes?

Mr. GARFIELD. Ninety-nine, I think.

The CHAIRMAN. And one blank?

Mr. GARFIELD. Yes; 98 and one blank.

The CHAIRMAN. As I have made a mistake of one, do you want to check this up?

Mr. DAVIDSON. Oh, I don't think so.

Mr. GARFIELD. I'll go over it twice. [Counts ballots.] Ninety-nine, including the blank.

The CHAIRMAN. That makes it check.

#### PERSEVERANCE.

Mr. DAVIDSON. One registration book, with oath of two judges, the third one not having signed the oath; one tally book properly signed, with proper oath.

The CHAIRMAN. What does the law provide—that three judges shall sign it?

Mr. GARFIELD. I would think that would be. I think only two—three of them signed the other book. Majority would be sufficient. It is purely an oversight.

Mr. DAVIDSON. Even they didn't any of them sign it, it wouldn't invalidate it.

The CHAIRMAN. Thirty-seven all told, no blanks. Mr. Riley neglected to sign the registration book.

Mr. RUSTGARD. This certificate of result gives Wickersham 17. Is that correct?

The CHAIRMAN. Certificate of result is wrong. Do you want to count the ballots?

Mr. RUSTGARD. No; I'd just call attention to the fact that the certificate of result, certified to by the judges, certifies that the results are that Sulzer received 19 and Wickersham 17 votes.

The CHAIRMAN. Yes; but the tally shows Sulzer 19 and Wickersham 15. Now, if you desire, we will run over those ballots promptly and count the Wickersham votes—any courtesy or satisfaction we can give.

Mr. RUSTGARD. No; I don't ask anything of the kind.

Mr. GARFIELD. Before we proceed further with that, before we pass that, I would suggest to the chairman that if you deem it necessary or if the canvassing board deems it necessary to verify the tally sheet, that the votes be retalled.

The CHAIRMAN. I think that is a very wise suggestion, in view of the apparent closeness of the election.

Mr. GARFIELD. I make a motion that we proceed with the verification.

The CHAIRMAN. As far as the Delegate is concerned.

Mr. GARFIELD. Delegate is concerned; no question about the others.

The CHAIRMAN. Well, why not make a double check of our tally on the tally book?

Mr. GARFIELD. I'd note then "Talled by the board."

Mr. RUSTGARD. In a separate column.

The CHAIRMAN. In a separate column.

(Recheck made.)

Mr. GARFIELD. Nineteen for Sulzer.

Mr. DAVIDSON. The same as I got in the first one.

The CHAIRMAN. Does that total 37 votes?

Mr. GARFIELD. Thirty-seven votes.

## CHICAGO.

The CHAIRMAN. Two tally books and one registration book.

Mr. DAVIDSON. The registration book has the proper certificate; the tally book is properly certified. There is also one certificate of the selection of judges of election when originally appointed ones fail to appear and qualify.

The CHAIRMAN. This book is evidently meant for the clerk of the court.

Mr. DAVIDSON. I'd move you, Mr. Chairman, that that book be sent to the clerk of the court, as they won't be able to get their pay unless it is sent there.

The CHAIRMAN. Yes; I think that would be perfectly proper. There is one rejected ballot here; has been scratched the same way as the previous two that we counted.

Mr. DAVIDSON. I move you that the ballot be counted.

Mr. HELLENTHAL. Mr. Chairman, may I suggest, with reference to these ballots, that as I understand it, it probably doesn't make much difference one way or the other, but in consulting authorities, I am advised by my associates that ballots of that kind should be rigidly rejected. If the ballot contains any additional marking or scratches, also cross in front of the name, in some instances they have been counted, but where no such cross appears, they have been by the courts rejected. I would suggest in that case that it probably would be a matter to take up with the Attorney General. I would suggest that it be taken up with him. I wouldn't want the board to act on my investigation, because it hasn't been thorough enough.

Mr. DAVIDSON. Well, so far as I'm concerned, I think that the board has a right to act on the thing and that it should stand as it is. Surely just one of them, as long as there is no——

Mr. HELLENTHAL (interrupting). Probably wouldn't make any difference in the count.

Mr. DAVIDSON. No. Still, it seems to me that these votes show on the face of them whom they wanted to vote for. It wouldn't make a difference in the count much.

The CHAIRMAN. I have been thinking this matter over a good deal since we met yesterday, and I don't know but that the position of Judge Hellenthal is very well taken. I think it is a matter that it wouldn't hurt anything to get an opinion of the attorney general on the subject, and that we can show in the record how the rejected ballot reads and get his opinion and tally it later, if necessary. What is your idea on the subject, Mr. Garfield? It is not in accordance with the principles of the Australian ballot to have distinguishing marks on the ballot.

Mr. GARFIELD. How does the law read on the question of the preparation of the ballot? Is it mandatory or directory in relation to the use of the cross in designating the wishes of the voter?

The CHAIRMAN (reads):

"The ballots shall be headed 'Official ballot' of the judicial division in which it is issued, and at the top thereof, above a perforated line, shall be duplicate stubs bearing consecutive numbers, one of said stubs to be retained by the election judges upon presenting the ballot to the voter, the other stub to be torn from the ballot by the election judges and compared and retained upon the return of the voter from the voting booth, and each official ballot shall contain under the title of each office one blank space for as many candidates as may be voted for to fill such office, below the printed names of candidates upon which may be written names of candidates or persons whose names are not printed upon the official ballot. The clerk of the court shall, in preparing said ballot, provide space in conformity with the act for the names of candidates for any additional offices which may hereafter be created for the Territory."

Mr. GARFIELD. I notice here the instructions on the ballot: "Mark X in the square at the left of the name of the candidate for whom you desire to vote. If names of candidates for whom you desire to vote do not appear on the ballot, insert with pencil in blank spaces." Now, that would seem to indicate to me, if that provision is given to insert upon the ballot, that it would also violate the principles or intention of the Australian ballot system, because it would indicate that a name was inserted there that didn't appear on the official ballot. "At the top of the ballot shall appear the instructions to the voter; a blank line shall be perforated on the ballot." That seems to be mandatory, as to the form of expression of the wish of the voter, but the law



seems to be lame there; if it gives permission to write in the name on the ballot, it also would give permission—as an indication of the intention of the voter, it would also give the voter the right to indicate in any other way.

Mr. HELLENTHAL. A good many of those laws contain that provision, so that people who don't get the nomination in the primaries, nevertheless can run.

Mr. DAVIDSON. Yes; but, as Mr. Garfield points out, if you want to mark a ballot you could mark it and you could agree on some name to put on it. If you wanted to show, this isn't as open as that would be.

Mr. HELLENTHAL. That is probably true, but the law has made the provision. It can be done in that way. The cross must be made to the left of the name. It's mandatory.

Mr. DAVIDSON. We're holding that the cross to the right of the name is mandatory.

Mr. HELLENTHAL. I don't think so, Charlie; I think you——

Mr. DAVIDSON (interrupting). You'll have to throw out dozens and dozens of votes. So far as I'm concerned, I'm going to stand on that.

The CHAIRMAN. Practically all the returns from every voting precinct, for both candidates, have crosses on the right hand side.

Mr. DAVIDSON. Yes; lots of them.

Mr. HELLENTHAL. That feature, I will say, I haven't had that looked up. The only thing I have had looked up is the matter of scratching out the names, and the authorities seem to be of one mind. Where the ballot is scratched, the name is scratched, and the person desired to be voted for also has a cross in front of the name, they count it in some instances; otherwise not. But the scratching or the mutilation of the ballot is not sufficient. But as I say, it is a matter that requires a whole lot of looking up, and I wouldn't want the board to act on what I have looked up.

Mr. GARFIELD. For my personal information, Mr. Hellenthal, I would ask you what is the spirit and intention of the election law.

Mr. HELLENTHAL. The spirit and intent of the election law is to provide for a pure ballot—to see to it; not to see that every one votes, but to see to it that every one votes legally. That is its purpose.

Mr. GARFIELD. And in addition to that, the method of expressing the intention of the voter on the ballot is indicated here in a certain way. If he does not see fit to follow the law strictly in the matter of his intention and he has expressed it in some other way, then it's illegal?

Mr. HELLENTHAL. It's illegal. That is a general statement, you understand. He has got to express himself in the manner provided by law. But there is a degree of latitude within which those things can be exercised. I wouldn't say as to just what that is.

Mr. GARFIELD. It has always been my opinion that even if the intention of the voter was clearly expressed, even if he didn't follow the spirit of the act, that the vote should be counted, because otherwise it would be a disfranchisement of the voter.

Mr. HELLENTHAL. The general purpose of it is that if a man wants to vote, he has got to express his desire to vote in the legal manner; must express his choice in the legal manner, in the manner provided by law. That is the purpose of this election, these restrictions in the Australian ballot law; otherwise the Australian ballot law wouldn't count for much, if a man could go in and vote his own way. There would be no use in having a law.

Mr. DAVIDSON. On the other hand, there are a great many men that are ignorant as to the proper manner of voting to a certain extent, but they make their ballot so that anybody can see the intent of that voter. You can see that he intended to vote a certain way, and I don't see any reason why his ballot shouldn't be counted.

Mr. HELLENTHAL. That idea that you advance has influenced the courts to allow certain degree of latitude, you see. Just what that degree is, I wouldn't want to say offhand.

Mr. GARFIELD. As to the ignorance of the voter, it appears to me that that is provided for by instructions—that is, any judge can instruct any voter, particularly, it appears to me, in relation to his manner of preparing his ballot. I think that provision is intended to cover any ignorance on the part of the voter, in relation to the preparation of his ballot; but without consulting the judge, he prepares the ballot in such a manner that he actually indicates his intention and without violating the ballot in any way by inserting in it extraneous matter or indicating in any way that he voted a certain ticket. Other

than that, it seems to me that the vote should be allowed, but I'm not fully decided on that, although we did take action upon it yesterday.

The CHAIRMAN. I fail to see anything in the latter that covers that. The Australian ballot law of the Territory—

Mr. HELLENTHAL. It merely provides that the cross must be made in front of the name. That is a mandatory provision when they use the word "shall."

Mr. DAVIDSON. That is not always mandatory, Jack—shall.

Mr. HELLENTHAL. Well, the word "shall" in a case of that kind is always mandatory.

Mr. DAVIDSON. We had the question out last year as to whether "shall" or "will" was mandatory and Congress says it is not mandatory.

The CHAIRMAN. Well, I'm the only member of the board who seen how that ballot is voted.

Mr. DAVIDSON. And I don't know what that—it isn't because I'm for either one, it's principle.

The CHAIRMAN. In consequence of which I am going to leave it to the members of the board to agree upon a procedure.

Mr. DAVIDSON. That is why I move without looking at the ballot. I don't care who it's for.

Mr. GARFIELD. Why, we were following a precedent in the action established yesterday, in the action that we took.

Mr. DAVIDSON. I don't think we can be very far off if we treat everybody the same.

The CHAIRMAN. Well, it seems to me that a motion is in order whether to count this ballot or whether to refer the matter to the attorney general.

Mr. DAVIDSON. I move that the ballot be counted.

Mr. GARFIELD. I am not prepared to second that motion. I would prefer, owing to the closeness, apparent closeness of the election, that we proceed with every caution necessary, in order to have a fair and impartial canvas of the vote and that we may act advisedly in the question from a legal standpoint of the authorized legal adviser of the Territory. I would move you that these returns and all subsequent returns which we may examine, up until the time we can secure that advice, be laid aside for further action by the board.

The CHAIRMAN. I'm inclined to agree with you, Mr. Garfield, because this may come up a great many times. Up to this ballot there has been no damage done to either candidate, and Mr. Grigsby will be here, I understand, on the *City of Seattle*.

Mr. HELLENTHAL. On the *Alaska*.

The CHAIRMAN. On the *Alaska*?

Mr. HELLENTHAL. Yes.

The CHAIRMAN. And he is the authorized legal adviser of the Territory. Now your opinion is that we simply return—

Mr. GARFIELD. Put all of them in a resealed envelope and set it aside for further action.

Mr. RUSTGARD. May I ask what advice the attorney general gave on this subject two years ago, if any.

Mr. GARFIELD (to Mr. Davidson). Do you recall, Charlie?

Mr. DAVIDSON. I can't recall whether it was brought up or not.

The CHAIRMAN. Wasn't this question brought up two years ago?

Mr. RUSTGARD. I wasn't present at the time of the canvas.

Mr. DAVIDSON. It generally balances; it probably wouldn't make any difference one way or the other.

The CHAIRMAN. No, but I think it is just as well to do as Mr. Garfield—

Mr. DAVIDSON (interrupting). Well, here's what I object to: I object to changing a rule after we have made it, because the first thing you know they'll be accusing us of trying to play partial. That is the only part I object to. Otherwise, I wouldn't object at all.

Mr. GARFIELD. It doesn't seem to me that there can be any impartiality shown here.

Mr. DAVIDSON. No, not in this, but you know—

The CHAIRMAN. I think we acted probably a little too hastily yesterday.

Mr. GARFIELD. Would it be proper at this time to rescind that former action?

Mr. DAVIDSON. I don't see that his motion will have the effect of rescinding it.

The CHAIRMAN. I think that his motion will have the effect of rescinding the former action.

Mr. DAVIDSON. Well, then we've got to take that off the tally. We've got two tallies in there and we've got to take them off.

Mr. GARFIELD. Why not complete the tally for some time yet and we can let that stand.

Mr. DAVIDSON. Of course, if we don't count any more, we should count these; that's a cinch.

The CHAIRMAN. Well, a note can be made on the tally pending a decision, pending advice by the attorney general.

Mr. GARFIELD. We don't have to summarize the sheets anyway, so it won't make any difference. It doesn't invalidate what tally we have already made or any tally we may make subsequently.

Mr. HELLENTHAL. Well, the attorney general will hold that it should be counted.

The CHAIRMAN. Yes, then we would have to change it.

#### HADLEY VOTING PRECINCT.

Mr. GARFIELD. There's one rejected ballot.

The CHAIRMAN. One is a blank.

Mr. DAVIDSON. There is one duplicate election register and tally book, with the proper oaths; we have two tally books and no registration book.

The CHAIRMAN. I think we better return these to the envelope until we can see whether the books haven't been sent to the clerk of the court.

Mr. DAVIDSON. That's probably what they did.

#### SITKA NO 1 (reopened).

(Missing books having been received from the clerk of the court.)

Mr. DAVIDSON. One registration book, properly certified to; one tally book properly certified to, and one certificate of selection of judges of election when original appointees fail to appear and qualify.

(Returns checked and found correct as submitted.)

#### TREADWELL PRECINCT.

Mr. DAVIDSON. Duplicate election and registration book, properly certified; one registration book properly certified.

The CHAIRMAN. How many rejected?

Mr. DAVIDSON. None.

Mr. GARFIELD. Total ballots, 59.

(Returns checked and found correct as submitted.)

#### SKAGWAY PRECINCT.

Mr. DAVIDSON. One registration book, properly filled in.

Mr. GARFIELD. No rejected ballots.

Mr. DAVIDSON. One duplicate election and tally book, properly filled in and certified to.

The CHAIRMAN. Here is a peculiar challenge oath, in which Wm. M. McKay swore that he is a bona fide resident of Alaska and had been a resident of the Territory preceding the election and been a resident of the voting precinct 30 days. "I came immediately prior to living in this precinct from Dawson, Yukon Territory, and I resided in said Yukon Territory for four years and six months. The place from which I came immediately prior to living in this precinct"—

Mr. HELLENTHAL. He's got to be there 30 days.

The CHAIRMAN. Yes, he says he was there 30 days and has been a resident of Alaska, has been in Alaska for a year, but came immediately prior from Yukon Territory.

Mr. GARFIELD. Well, does that mean immediately from Yukon Territory without any intervening residence in Alaska?

The CHAIRMAN. He has sworn in his oath, so I imagine there is nothing to do but to count it.

Mr. DAVIDSON. We'd have a hard time barring that ballot anyway, wouldn't we?

The CHAIRMAN. What?

Mr. DAVIDSON. We couldn't fire that ballot.

The CHAIRMAN. Why, they enclose the ballot separately. Here it is.

Mr. DAVIDSON. He swears that he has been such resident during the time preceding this election, has been a resident of this voting precinct for 30 days next preceding the election, "that the place from which I came immediately prior to living in this precinct was Dawson." Well, may be he has been living in Dawson.

The CHAIRMAN. Well, it was challenged evidently.

Mr. HELLENTHAL. Is he a citizen?

The CHAIRMAN. He says he is. Is his vote rejected, or is there any comment?

Mr. GARFIELD. No! No!

The CHAIRMAN. We'll count these votes to see if they put it in separately, to see how it jibes out. One hundred and forty-two votes.

Mr. GARFIELD. One hundred and forty-two.

The CHAIRMAN. Well, then that vote is included.

Mr. GARFIELD. Yes.

Mr. DAVIDSON. Well, it looks to me——

Mr. HELLENTHAL (interrupting). I would suggest that it be kept separate. They probably did that because somebody doubted his speaking the truth.

The CHAIRMAN. It ought to be kept just the way it was sent. No rejected ballots.

(Adjournment taken at noon; to be continued at 2 p. m.)

THURSDAY, FEBRUARY 6—2 P. M.

The CHAIRMAN. Here is the duplicate registration book from Hadley, furnished by the clerk of the court. I think we might take up Hadley.

#### HADLEY PRECINCT (reopened).

Mr. DAVIDSON. The registration and tally books seem to be properly filled out, with proper oaths; one registration book with proper oath filled out and signed and two notices—one notice of appointment of judges of election at Ketchikan, and the appointment of the judges.

The CHAIRMAN. Twelve votes cast; one seems to be blank.

Mr. GARFIELD. Total 12, 1 blank.

(Returns checked and tallied.)

#### BEAVER FALLS.

Mr. DAVIDSON. One registration book, properly filled and certified to; 1 duplicate election register and tally book properly filled out, with proper oaths.

The CHAIRMAN. What is this? It is not signed—certificate of election when original appointees fail to appear and qualify. Another condition. Here there's Silver, Hewitt, and Bady.

Mr. GARFIELD. They are the ones that acted. They took oaths over here—Silver, Hewitt, and Bady.

Mr. DAVIDSON. I imagine that they simply filled that because they did not know what else to do with it. See to be perfectly——

Mr. GARFIELD. Oh, yes; it is properly certified.

The CHAIRMAN. Thirteen ballots; no blanks.

(Ballots counted, returns checked and tallied.)

#### MENDENHALL PRECINCT.

Mr. DAVIDSON. One registration book, properly filled in and certified to; 1 duplicate election register and tally book, properly filled in and certified; certificate of selection of judges when original appointees fail to appear and qualify properly signed.

(Ballots counted, returns checked and tallied.)

#### HOONAH PRECINCT.

Mr. DAVIDSON. One registration book properly filled in and signed; 2 certificates of judges of election when original appointees fail to appear and qualify; 1 duplicate election register and tally book, properly filled in, with proper oaths.

The CHAIRMAN (after counting ballots). Sixteen votes.

(Returns checked and tallied.)

## LORING PRECINCT.

Mr. DAVIDSON. One registration book, properly filled in and certified to; 2 certificates of selection of judges of election when original appointees fail to appear and qualify, properly filled in and certified. Acceptance of appointment of judge outside of incorporated towns.

The CHAIRMAN. Here something comes up; none of the coupons have been detached—an irregularity.

Mr. GARFIELD. No tally in the tally book either.

Mr. DAVIDSON. Haven't they got any tally at all?

Mr. GARFIELD. No.

The CHAIRMAN. No tally over there?

Mr. GARFIELD. No; certified but not tallied in the book.

The CHAIRMAN. I imagine we'll have to tally them then.

Mr. DAVIDSON. We'll have to tally them.

The CHAIRMAN (to Mr. Davidson). What do you call that [indicating]? Erased?

Mr. DAVIDSON. Looks like erased.

The CHAIRMAN. Well, we won't count it.

Mr. GARFIELD. Total cast, 25; seems to agree with the certificate.

Mr. DAVIDSON. Does it?

Mr. GARFIELD. Yes.

(Ballots counted, returns checked and tallied.)

## JUALPA PRECINCT.

Mr. DAVIDSON. One registration book, properly filled out and signed; one duplicate election register and tally book, properly filled out and certified to.

(Ballots counted, returns checked and tallied.)

## TOKEEN PRECINCT.

Mr. DAVIDSON. One registration book, properly certified; one duplicate election register and tally book, properly filled out and signed.

The CHAIRMAN. Another instance where the stubs have not been detached.

(Ballots counted, returns checked and tallied.)

## DOLOMI PRECINCT.

Mr. DAVIDSON. One registration book, properly filled out and signed; duplicate election register and tally book, properly certified.

(Ballots counted, returns checked and tallied.)

## KASAAN PRECINCT.

Mr. DAVIDSON. One registration book, properly filled in and certified; duplicate election register and tally book, properly certified.

The CHAIRMAN. Here's a ballot that's been thrown out and not counted. It was made in ink and folded, and the impress spread on the other side—all the way through. For instance, here is Wiley, left a mark way up there [indicating]. You can fold that on the old crease and see where it has been. The folding together has blotted and left a cross all over the ballot.

Mr. DAVIDSON. I think it should be counted.

The CHAIRMAN. You think it should be counted?

Mr. DAVIDSON. I do.

The CHAIRMAN. Where we can identify what should be counted and what should not.

Mr. GARFIELD. Those two are evidently blotted out and so is this [indicating].

The CHAIRMAN. Can you pick out, by marking with a ring around it what the blots are?

Mr. GARFIELD. You can identify the scratch of the pen there.

The CHAIRMAN. Can you?

Mr. GARFIELD. Yes; very slightly, and in some of them you can distinguish the mark.



The CHAIRMAN. It is quite evident that this is a mistake, as it checks Wiley. Let's see where Sulzer is marked. Evidently intended to vote for Sulzer, because there is no other mark there.

Mr. DAVIDSON. I tell you what to do with that, Governor: Put that up to the window; you can see it then.

Mr. HELLENTHAL. Have you got a magnifying glass? That will show the pen marks.

The CHAIRMAN. I think we'll have to throw it out, as they are made up with regard to the Territorial representatives. Five marks and we'll have to throw those four representatives.

You want to examine that, Judge?

Mr. RUSTGARD. Just for the sake of the record, I'd like to have attention called to the fact that the pencil marks on the ticket are all put on by the board at the present time.

The CHAIRMAN. Yes; thanks. I think the judges of election probably acted perfectly properly in throwing anything out that looked peculiar.

Mr. DAVIDSON. Be no trouble at all with a good glass; read that right off.

The CHAIRMAN. Here is the ballot in question.

Mr. GARFIELD. Now, wait a minute. They have counted the head of the ticket and none of the rest of them.

(Ballots counted, returns checked and tallied.)

#### CHILKAT VALLEY.

Mr. DAVIDSON. One registration book, properly filled in and certified; duplicate election register and tally book, properly certified.

The CHAIRMAN. Eleven votes.

Mr. RUSTGARD. There's two on one ballot.

The CHAIRMAN. Oh, that's right.

Mr. RUSTGARD. But it seems that they counted it.

The CHAIRMAN. I think we'll have to reject this portion of the ticket.

Mr. RUSTGARD. It may be they have rejected it.

The CHAIRMAN. We'll check it up and see, Judge.

Mr. GARFIELD. There's 11 votes tallied and only 9 for the head of the ticket.

Mr. DAVIDSON. Probably thrown out.

(Note found on back of one ballot to the effect that the ballot was not counted.)

Mr. GARFIELD. That makes it check right.

Mr. DAVIDSON. Yes.

(Ballots counted, returns checked and tallied.)

#### TENAKEE.

Mr. DAVISON. One registration book properly certified; duplicate election register and tally book properly certified.

The CHAIRMAN. Here is a ballot that is a little bit peculiar, in that the cross is below the name.

Mr. GARFIELD. Well, he hasn't voted for the party designation. Who has he voted for?

The CHAIRMAN. I don't know; the supposition is that he voted for Wickersham.

Mr. GARFIELD. Yes; he crossed the nearest his name.

The CHAIRMAN. Is nearest his name.

Mr. GARFIELD. A manifest mistake.

Mr. HELLENTHAL. He wanted to vote for some fellow that wasn't nominated, and forgot to write it in.

Mr. GARFIELD. Any indication on the back of the ballot of the action of the board.

The CHAIRMAN. No; no indication on the back of the ballot.

Mr. DAVIDSON. How do they check up here?

The CHAIRMAN. Twenty-nine.

Mr. GARFIELD. Thirty votes there.

Mr. DAVIDSON. No; 29 votes.

The CHAIRMAN. Hasn't been counted evidently. I think this is a question to be referred to the attorney general, too.

Mr. DAVIDSON. Well that, of course, is a question of fact there, not of law. If he hasn't voted, if he intended to vote for Wickersham, or if he hasn't, there is no law on that.

Mr. GARFIELD. To my notion, the intent of the voter is not indicated.

The CHAIRMAN. It is indicated as a blank.

Mr. DAVIDSON. Don't look to me like it could be counted.

The CHAIRMAN. I think we'll have to so consider it, unless you want to put it up to the attorney general.

Mr. GARFIELD. I don't think that is a question of law there at all; question of fact.

The CHAIRMAN. Is it the opinion of the board, then, that we canvass the head of the ticket throughout?

Mr. DAVIDSON. Might do that and see if then the tally comes out all right.

Mr. GARFIELD. It is plainly indicated here that the vote has been counted.

Mr. DAVIDSON. We can tally it in a minute.

(Returns gone over and tallied.)

The CHAIRMAN (exhibiting a ballot). That is not counted.

Mr. RUSTGARD. They counted it for Sulzer, evidently.

Mr. DAVIDSON. I'm quite sure you made a mistake [to Mr. Garfield], and put one down for Wickersham when you should have put it down for Sulzer.

The CHAIRMAN. We'll do it all over again.

Mr. GARFIELD. They counted it.

Mr. DAVIDSON. Yes; they counted it.

Mr. GARFIELD. It's a vote for Wickersham.

The CHAIRMAN. That it be counted as tallied, is that the opinion of the board?

Mr. GARFIELD. Tallied by the board.

Mr. DAVIDSON. I don't see how you can tell, where it is marked on a line opposite the name of some man, to indicate the one you want to vote for—I don't see how we can say that that belongs to any particular man there.

The CHAIRMAN. Just like it was written down here across his name.

Mr. DAVIDSON. Even if he had crossed it below the line, where it would indicate that he started to make a cross in the right place, why then I should say count it, but when it is clearly below the line——

Mr. MARSHALL. Does the cross touch the line.

The CHAIRMAN. I think it is clearly below it.

Mr. MARSHALL. I mean touch the line.

The CHAIRMAN. No more than it does in Johanson's case.

Mr. MARSHALL. I mean penetrate the line.

The CHAIRMAN. Just one prong touches the line.

#### WINDHAM PRECINCT.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. The tally sheet is right.

Mr. DAVIDSON. One duplicate election register and tally book, with proper certificates.

The CHAIRMAN. We will now adjourn (4 p. m.) until to-morrow morning at 10 o'clock.

FRIDAY, FEBRUARY 7, 1919—10 A. M.

The CHAIRMAN. I've got a communication here from Arthur Lang:

VALDEZ, January 18, 1919.

Hon. THOS. RIGGS, Jr.,

*Governor of Alaska, Juneau, Alaska.*

SIR: All the returns are in from the different voting precincts in this division, except four precincts, namely, Chogglung, Nushagak, Naknek, and Nizina, and certified copies of same have been forwarded to Juneau.

In every precinct in which returns have been received, official ballots were used except at Unalaska and Chignik voting precincts. The judges of each of these precincts have returned a certificate of fact preventing use of official ballots. The judges of Chignik voting precinct returned certificate in duplicate along with the returns to this office. I am inclosing you one of those certificates to be attached to the returns received by you.

Please acknowledge receipt of this certificate.

Respectfully,

ARTHUR LANG, Clerk.

I can't understand why it is that those places to the westward are always the only places in the Territory that receive election supplies and not the ballots.

Mr. GARFIELD. Well, the mail facilities were very poor.

The CHAIRMAN. I know they are.

Mr. GARFIELD. But before that, they should have received them at the former election.

The CHAIRMAN The certificate of the judges of election, of facts preventing the use of official ballots:

"We, the undersigned, constituting the duly qualified election judges of Chignik voting precinct, Unga recording district, of the third division, Territory of Alaska, serving for the election held November 5, 1918, do hereby certify that no official ballots were received by us, or any of us, for use at said election, and for that reason the voters at said election in this precinct were permitted to write or print their ballots as provided by section 21, chapter 25, session laws of Alaska, 1915, and return is made accordingly.

"C. J. BRUN,

"R. N. SACHSENRODER,

"EDWARD E. NILSEN,

"*Judges of Election.*"

The notice of election for Delegate to Congress reads:

"All citizens of the United States, 21 years of age and over, who are actual and bona fide residents of Alaska, and who have been such residents continuously during the entire year immediately preceding the election in the precinct in which they vote, shall be qualified to vote in this election.

#### "ORDER OF ELECTION.

"TERRITORY OF ALASKA,

"*Fourth Division, Kuskokwim Precinct, ss:*

"Pursuant to an act of Congress commonly called the home-rule bill, to create a legislative assembly in the Territory of Alaska, to confer legislative powers thereon, and for other purposes, which said act was signed by the President August 24, 1912, it is hereby ordered—

"1. That on Tuesday, November 5, 1918, there will be held throughout the said Kuskokwim precinct a general election for Delegate to Congress, a Territorial attorney general, and one senator and four representatives to the Alaska Legislature.

"2. That said Kuskokwim precinct be, and the same is hereby, divided into four voting precincts, to be known as Georgetown voting precinct, Mouth of Crooked voting precinct, Aniak voting precinct, and Akiak voting precinct.

"3. That Georgetown voting precinct comprise all that part of the Kuskokwim River and tributaries from the north line of said precinct downstream to Central Creek.

"That the polling place of said Georgetown voting precinct shall be at J. M. McDonald's.

"4. That the Mouth of Crooked voting precinct comprise all that part of the Kuskokwim River and tributaries from Central Creek downstream to Island village.

"That the polling place of said Mouth of Crooked voting precinct shall be at A. A. Burglin's place of business.

"5. That said Aniak voting precinct shall include all that part of the Kuskokwim River and tributaries from Island village downstream to the Portage.

"That the polling place for said Aniak voting precinct shall be at the office of the United States commissioner.

"6. That said Akiak voting precinct shall include all that part of the Kuskokwim River and tributaries from the Portage downstream to the south boundary line of the Kuskokwim precinct.

"That the polling place of the said Akiak voting precinct shall be at the office of Dr. Frank W. Lamb, at United States hospital.

"7. That the polling places in said four voting precincts shall be kept open for the reception of votes from 8 o'clock a. m. until 7 o'clock p. m. on said day of election.

"Done at Aniak, Alaska, this 26th day of August, A. D. 1918.

"[SEAL.]

(Stamped:)

DUKE E. STUBBS,

"United States Commissioner for the Kuskokwim Precinct,

"*Fourth Division, Territory of Alaska.*"

Mr. RUSTGARD. Are they new precincts?

Mr. DAVIDSON. No; they have to establish them each time, don't they, Mr. Marshall?

Mr. MARSHALL. Yes; you have to issue an order every year establishing those precincts.

The CHAIRMAN. Does that apply to formerly established precincts?

Mr. MARSHALL. Yes.

The CHAIRMAN. Every precinct outside of incorporated towns?

Mr. MARSHALL. And those of any incorporated town.

Mr. RUSTGARD. Those precincts referred to here, are they old precincts?

Mr. DAVIDSON. Yes.

The CHAIRMAN. Georgetown, Mouth of Crooked——

Mr. DAVIDSON. Crooked, I don't know; but Georgetown and Akiak are.

#### DOUGLAS NO. 2.

Mr. DAVIDSON. Duplicate election register and tally book, certificate properly filled in and signed; one registration book, with proper certificates.

The CHAIRMAN. Here's a statement that certain voters are Indians leading a civilized life.

Mr. RUSTGARD. Who is it?

The CHAIRMAN. John Harris, Gilbert Jackson, John Willis, William Brady, Jimmy Fox, Edward M.——

Mr. DAVIDSON. With certificate of selection of judges of election when original appointees fail to appear and qualify, properly filled out and certified, and acceptance of appointment by members of election board in a municipality.

(Ballots counted, returns checked, and tallied.)

#### KAKE PRECINCT.

Mr. DAVIDSON. One registration book, properly certified; one duplicate election register and tally book, properly certified; one certificate of selection of judges of election when original appointees fail to appear and qualify, properly filled in; and three accepted appointments by judges outside of incorporated towns, and four notices of appointment of judges of election.

#### CHARCOAL POINT PRECINCT.

Mr. DAVIDSON. One registration book, properly certified; three challenged oaths; one duplicate election register and tally book, properly certified.

The CHAIRMAN. Now, here is another one of these votes similar to that of yesterday, but besides having the name scratched out, it also has distinguishing mark on it, showing the intent, I think, of the voter.

Mr. GARFIELD. The only question that could arise about that would be identification.

Mr. DAVIDSON. But so far as that identification goes, the same as we had yesterday, he has got a right to write any name in he wanted to, and he could identify any ballot he wanted to simply by writing in the understood name before.

The CHAIRMAN (to Mr. Hellenthal). What was it you said yesterday about a ballot of this kind? You said you had been looking up the authorities on it.

Mr. HELLENTHAL. Where they had used a cross, in addition to others, they sometimes counted them, although in Massachusetts they go so far as to throw them out, where instead of using the cross the circle is used. They throw such ballots out there, claiming that it should be a cross and not a circle. They go on this theory: They say that every man is presumed to know the law; he ought to know the law. The law requires him to put his cross in front of the name for which he wants to vote, and if he doesn't do that, he doesn't vote in the legal way. There is no excuse for it, and the vote ought to be thrown out.

Mr. GARFIELD. Here's a case where he has not only crossed the name he wished to vote for, but has scratched the opposing candidate.

Mr. DAVIDSON. There is nothing to show that you can't run a line through the rest of them.

Mr. HELLENTHAL. No; the only objection to that vote is that it may be identified. I don't know any other——

Mr. GARFIELD. I don't think, Governor, that this is in the same status as the other is.

The CHAIRMAN. It says "Mark X in the square at the left of the name of the candidate for whom you desire to vote. If names of candidates for whom you desire to vote do not appear on the ballot, insert with pencil in blank spaces."

The CHAIRMAN. What is the opinion of the board?

Mr. DAVIDSON. My opinion is that all of them ought to be counted where the intent of the voter is shown.

Mr. GARFIELD. Well, after the action the board took yesterday, I wouldn't make it quite as broad as that. I think this vote is plain enough; it's in a little different category; that's all.

The CHAIRMAN (to Mr. Garfield). Is it your opinion that we should count this vote?

Mr. GARFIELD. Yes.

The CHAIRMAN (to Mr. Davidson). Is it your opinion that we should count this vote?

Mr. DAVIDSON. Yes.

(Returns checked and tallied.)

#### SULZER PRECINCT.

Mr. DAVIDSON. One registration book, properly certified; one notice of appointment of judges of election; one appointment of judges; one tally book; duplicate election register and tally book properly certified.

(Ballots counted, returns checked and tallied.)

#### SCOW BAY PRECINCT.

Mr. DAVIDSON. One registration book properly certified; duplicate election register and tally book properly certified.

The CHAIRMAN. There are a couple of ballots here the same as yesterday, crossed in ink and the transfer made, but the intent is perfectly clear. For instance, that [showing] intent is perfectly clear there, I think.

Mr. DAVIDSON. Oh, yes. Also one appointment of judges of election.

(Two of the candidates were also judges of election.)

(Ballots counted, returns checked and tallied.)

#### GOLD AND SALMON CREEK PRECINCT.

Mr. DAVIDSON. One registration book, properly certified; one duplicate election register and tally book, properly certified.

Shouldn't that be two precincts?

The CHAIRMAN. I think the official designation is Gold and Salmon Creek.

Mr. DAVIDSON. It was combined this time.

(Ballots counted, returns checked and tallied.)

#### BARANOFF PRECINCT.

Mr. DAVIDSON. One duplicate election register and tally book, properly certified; one certificate of selection of judges when original appointees fail to appear and qualify.

The CHAIRMAN. You made a mistake here [indicating]: "Certificate of facts preventing the use of official ballots."

Mr. DAVIDSON. That's right, too; I didn't read it.

The CHAIRMAN. But they have the official ballots.

Mr. DAVIDSON. Yes. I suggest, Governor, that we wire over to Sitka to see if that precinct has been properly established. Probably hadn't received the votes.

(Telegram sent accordingly to commissioner at Sitka, to the effect that no notice of the establishment of precinct in question had been received by the governor's office, and asking if it had been established.)

The CHAIRMAN. Would you suggest going ahead and recording it?

Mr. DAVIDSON. Yes; I would suggest that we go ahead and—

Mr. GARFIELD. Wouldn't it be better to hold it up temporarily until we hear, without recording it?

The CHAIRMAN. Well, we can do that.

(Further consideration of Baranoff Precinct returns deferred.)



Mr. Fox. That's all the first division I can find.  
 The CHAIRMAN. I think we might as well go on to the third division.  
 Mr. DAVIDSON. Either third or fourth division.

## THIRD DIVISION.

## VALDEZ BAY PRECINCT.

(Consideration of returns from this precinct deferred, owing to the fact that the original registration book was found to be missing.)

## CHITINA PRECINCT.

Mr. DAVIDSON (after examining book). I suppose that they only made one book out there.

The CHAIRMAN. Where did they get the tally?

Mr. DAVIDSON. They probably made the tally in the same book. That is not the original register. They may not have had them in the third division. Some of them last year didn't have them, but I don't know whether it was the third or not that didn't have the—

The CHAIRMAN. The other one was a different book, wasn't it?

Mr. DAVIDSON. Yes. The trouble is, these are all printed in a different division. Some of them take the law one way and some the other, and print the books a little different.

The CHAIRMAN. This is tallied.

Mr. DAVIDSON. The only difference is this: We haven't the names of the people who come in to register; we haven't that book that they sign. I don't see any reason why we can't go ahead, though. We may find all of them that way.

The CHAIRMAN. It couldn't be, General, because if that was the case, it would be in the power of the judges of election, if they wanted to, to make up a tally any way they wanted to. Seems to me, we have to have a registration book.

Mr. DAVIDSON. Well, of course, they have certified to this as being a proper tally, and they have sworn that this is a copy.

The CHAIRMAN. We can make a note of this in the record.

Mr. DAVIDSON. That's what I would say; make a note in the record.

The CHAIRMAN. And if we come across it, make an additional note.

Mr. DAVIDSON. I wouldn't wonder if they sent those books to the clerk of the court, and just sent us the one book. You may find that all through the third division.

The CHAIRMAN. You got any suggestion to make, Judge Rustgard, or Judge Hellenenthal?

Mr. RUSTGARD. Only this: You read into the record whatever documents you find contained in the returns.

The CHAIRMAN. We do that anyway; we do that anyway, irrespective of whether they are complete or not.

Mr. HELLENTHAL. What is that?

The CHAIRMAN. Registration book.

Mr. HELLENTHAL. They didn't register in the second division at all two years ago.

Mr. DAVIDSON. Well, ours are combined.

Mr. HELLENTHAL. Here's the election register.

Mr. GARFIELD. The only thing is that it is not signed by the voters individually.

Mr. HELLENTHAL. And here's the tally book. What more do you want?

Mr. DAVIDSON. We've got everything except—here's [showing] all that's left. This book was kept by one of the clerks and the other handed the register to the voter to come in and sign.

Mr. HELLENTHAL. Two registers, one for the clerk and one for the voters. They didn't do that at Nome last year.

Mr. DAVIDSON. There was one division they didn't have it in at all.

The CHAIRMAN. Well, we'll proceed with this tally.

Mr. DAVIDSON. One election register and tally book, properly certified; missing, one original registration book.

(Ballots counted, returns checked and tallied.)

## ANCHORAGE NO. 2.

Mr. DAVIDSON. One election register and tally book, properly certified; original registration book missing.

Mr. GARFIELD. Here's a fellow voted for five representatives.

The CHAIRMAN. For five representatives?

Mr. GARFIELD. Yes.

The CHAIRMAN. Here are some others; may have to be thrown out for that same reason. Here's two rejected ballots, and that's scratched. That can be counted. Here is one vote for five representatives. I think we might as well take one off of each one of these; take one off of each representative.

Mr. DAVIDSON. Kills the whole one.

The CHAIRMAN. Here is one rejected, has only one cross on it, for John Frame. Indicates his desire to vote for John Frame.

Mr. GARFIELD. I don't know; I think that vote is good.

The CHAIRMAN. Yes; that's my opinion. Then its agreed to add one to Frame's vote?

Mr. GARFIELD. Yes.

The CHAIRMAN. I better mark this ballot "Counted for Frame."

Here's one that has been rejected for having a square after the candidate's name instead of having a cross in the square. I think this was probably an ignorant man, and he seen these marks up here and decided that he could use either one of those for his mark. My personal opinion is that they be counted.

Mr. GARFIELD. Mine, too.

Mr. DAVIDSON. It is plain.

The CHAIRMAN. It is plainly his intention.

Mr. DAVIDSON. Yes.

The CHAIRMAN. Then you tally off one more for Wickersham.

Mr. DAVIDSON. Yes.

The CHAIRMAN. One for Ward, one for Green, and one for Wilson. Here are ballots marked: "These ballots were counted except those parts in which there are more marks than the allotted number allowed, such as where there were two candidates for Delegate marked, that part was not counted, but the balance of the ticket was counted."

Fourteen partially incorrect ballots.

Mr. GARFIELD. That is not exactly true, according to the statement.

The CHAIRMAN. No; well——

Mr. GARFIELD. Because there's two Delegates not voted for in each instances. There's one, for instance——

The CHAIRMAN. But here "As where there are two candidates for Delegate marked."

Mr. GARFIELD. Oh.

(Ballots counted, returns checked and tallied.)

## FIDALGO PRECINCT.

Mr. DAVIDSON. One election book and tally book, properly certified.

The CHAIRMAN. How many voters registered?

Mr. DAVIDSON. Fifteen.

The CHAIRMAN. We have here a ballot that is not marked as rejected. He's voted for everybody on the ballot almost except Wickersham.

Mr. DAVIDSON. And they didn't reject it?

The CHAIRMAN. Doesn't show to be rejected. I think this is a case of canvassing the votes. How many votes for Delegate?

Mr. DAVIDSON. Fourteen.

The CHAIRMAN. Well, that has evidently been rejected. Better mark that "rejected." I think we better check through——

Mr. DAVIDSON (interposing). The head of the ticket?

The CHAIRMAN. Yes.

(Ballots counted, returns checked, and tallied.)

(Adjournment taken at noon. Meeting to be continued at 2 p. m.)

The board convened at 2 p. m., February 7, pursuant to adjournment.

## VALDEZ BAY PRECINCT—REOPENED.

The CHAIRMAN. I've got 36 ballots here.

Mr. GARFIELD. Thirty-seven registered; one mutilated and scratched out.

(Ballots counted, returns checked and tallied.)

## ESKA PRECINCT.

Mr. DAVIDSON. One election register and tally book, properly certified.

The CHAIRMAN. Here is another scratched ticket, the same as those others. How many voters are there there? Do they show any rejected?

Mr. GARFIELD. One mutilated ticket. No; not in this one. I was thinking about the other.

The CHAIRMAN. Forty-seven ballots here, so we'll have to lay this aside pending——

Mr. RUSTGARD. How many have you counted?

The CHAIRMAN. Forty-seven. There are some on which the head of the ticket wasn't voted for at all. That makes how many?

Mr. GARFIELD. Forty-five—forty-six.

The CHAIRMAN. And this one makes 47. This has evidently been counted for Sulzer.

Mr. GARFIELD. No; 45 voted for the head of the ticket.

The CHAIRMAN. Forty-five and one blank is 46; so evidently this one wasn't counted.

Mr. GARFIELD. That one evidently wasn't counted.

The CHAIRMAN. Evidently wasn't counted. We'll have to put this aside the same as the other one. [To Mr. Fox.] You're marking on the outside what it is?

Mr. Fox. I'm putting "Uncanvassed" on them.

## BIRD CREEK PRECINCT.

Mr. DAVIDSON. One election register and tally book, properly certified.

The CHAIRMAN. How many voted?

Mr. GARFIELD. Twenty-one altogether.

The CHAIRMAN. Here's one that's erased. Seems to me that it is perfectly clear what the intent of that was. We have had that before. Here is one where there was two votes cast for delegate. Can't count it for Delegate. Now, we've got two for Senator.

Mr. DAVIDSON. Well, we can count it for Wilson anyway.

The CHAIRMAN. There is no notation of what happened?

Mr. GARFIELD. No; nothing at all.

The CHAIRMAN. Looks as though we'd have to canvass these. What'll we do, canvass the whole thing? Imagine we'll have to on account of——

Mr. DAVIDSON (interrupting). You going to count all of them?

The CHAIRMAN. I think we'll have to.

(Ballots canvassed, returns checked, and results tallied.)

## WASSILA PRECINCT.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here is a ballot not counted with all the names, except evidently the one the man wanted to vote for, scratched—the same thing as we're asking an opinion on. Here is another ballot which has a cross against a blank line, the same as we had the other day. Now, I think we'll have to recanvass——

Mr. GARFIELD. How many cast their ticket there?

The CHAIRMAN. Forty-two ballots altogether.

Mr. GARFIELD. Neither one of those were tallied?

The CHAIRMAN. Neither one were tallied. This one we have decided should not be tallied.

Mr. GARFIELD. That is so far as that vote——

The CHAIRMAN (interposing). That vote is concerned.

Mr. GARFIELD. These others, though——

The CHAIRMAN. I think they were probably tallied. This is the only one marked "not tallied." We'll have to lay it aside.

(Laid aside for further consideration.)

## M'CARTHY PRECINCT.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here is a ballot that was not counted, which is marked twice for Delegate and twice for Senator, with no notation on the back. Here is a ballot that is rejected for some reason or other.

Mr. DAVIDSON. Just because that is marked on the opposite side.

The CHAIRMAN. Some in here are marked on the other side, but there is a ballot we have been counting.

Mr. GARFIELD. I think this is a good ballot.

The CHAIRMAN. I think so. There is only one other case, and that is where it is marked on both sides, and that has been counted. This has evidently been counted, marked on the wrong side of the ticket.

Mr. HELLENTHAL. I don't think you can count that.

The CHAIRMAN. I tell you, Judge, there are probably two or three hundred that have been passed by the judges in just that same way. They are about evenly divided. Can't say one way or the other.

Mr. HELLENTHAL. It probably wouldn't make any difference one way or the other, but it may avoid a contest in the future.

The CHAIRMAN. Nobody wants a contest, but it would mean——

Mr. HELLENTHAL. A fellow might get in, Charlie—suppose some of them would get in, and it should be found that these votes couldn't be counted——

The CHAIRMAN. I know, but if you do that you would have thrown out 10 to 15 per cent of all votes.

Mr. HELLENTHAL. Well, the law requires it.

The CHAIRMAN. I don't think the law does require it. The law says it shall be marked with an X opposite the name. It would mean an entire new canvass.

Mr. HELLENTHAL. That's the trouble with the whole situation. It is such an important question that I wouldn't want to express an opinion off-hand what you ought to do. I think it is important to find out what the law is.

The CHAIRMAN. It would mean an entire canvass of every voting precinct.

Mr. DAVIDSON. And every ballot.

The CHAIRMAN. And every ballot.

Mr. HELLENTHAL. It would be quite a job.

The CHAIRMAN. Yes. So far, as far as can be told, they are about evenly balanced.

Mr. HELLENTHAL. The chances are that about as many fellows would vote that way on one ticket as on the other. Still, by getting at it right, it might avoid a contest; it might save somebody a lot of expense.

The CHAIRMAN. Here is a ballot that was among those that were counted; that is clearly improper; two for Delegate marked and two for Senator.

Mr. HELLENTHAL. It would be a question whether this first fellow voted for Sulzer, too. He tried to play fair.

(Ballots counted, checked, and tallied.)

#### ELLAMAR PRECINCT.

Mr. DAVIDSON. Election register and tally book properly certified.

The CHAIRMAN. When we have cases of rejected ballots, shall we take those up first before we make the count?

Mr. GARFIELD. I think it would be better.

The CHAIRMAN. This ballot is thrown out.

Mr. DAVIDSON. What the dickens is it thrown out for?

The CHAIRMAN. It seems that he voted for two Senators.

The CHAIRMAN (reading). "Rejected ballot found not to be a citizen before ballot went into the box," and as he voted for Sulzer, Wickersham, for Price, Wilkinson, for Green, Henry, Murray, Noon, Patterson, Reed, and Small. I think we might accept the verdict.

Here, I think we'll have to count this except for Senator (showing).

(Ballots counted, checked, and tallied.)

#### NIZINA PRECINCT.

Mr. DAVIDSON. Registration book properly certified.

The CHAIRMAN. Here is an affidavit [reads affidavit of the United States commissioner, McCarthy precinct, about the nonreceipt of certain election supplies]. Well, as it seems to be perfectly regular, I think we'll let it go.

(Ballots counted, checked, and tallied.)

#### ANCHORAGE NO. 1.

Mr. DAVIDSON. One registration book with proper certificates; one election register and tally book, certified to.

The CHAIRMAN. Now, here is one I picked out here that is among those counted; votes for Sulzer and Wickersham. Here is another one among those counted; got a cross against the blank. These are disposed of because they had new ballots issued to them. This one [showing] is among those counted.

Two hundred and seventy-four and five spoiled—279. That makes it right. Well, now I suppose we can run through these rapidly and count these just at the head of the ticket. I don't see how they could have counted these. Wilkinson is away snowed under; I don't know how Small stands. I don't see how they could have counted those.

(Tally made disagreed with that made by election board.)

The CHAIRMAN. We counted that [indicating] as a blank. That's the same thing, you see.

Mr. DAVIDSON. Oh, yes; I thought you said this ticket was counted as a blank.

The CHAIRMAN. No.

Mr., GARFIELD. Just the head of the ticket. There's 131; that would be 124 instead of 123 for Wickersham; 13 for Connolly, 131 for Sulzer, 123 for Wickersham and five blank. That's the way that comes out. The governor counted one twice there, you see.

The CHAIRMAN. It's 4 o'clock. We'll adjourn until 10 o'clock to-morrow morning.

SATURDAY, FEBRUARY 8, 1919.

The board met at 10 a. m., pursuant to adjournment.

The CHAIRMAN. I have here a telegram from De Armond, commissioner at Sitka, dated February 7:

"Warm Springs precinct, or precinct No. 3, all of the east coast of Baranoff Island south of Peril Straits to Cascade Bay we established for election of November 5; voting place at Baranoff."

Says "we established" means "was established," I think.

We'll take Baranoff first. We've got to tally that.

Mr. DAVIDSON. How would it be to leave it go? We're on the third division now and we might as well get through with it.

The CHAIRMAN. All right, we'll take that up.

Mr. DAVIDSON. We've got several others anyway.

(Canvass of returns from Baranoff precinct deferred.)

SEWARD.

Mr. DAVIDSON. One election register and tally book, properly certified.

Mr. GARFIELD. Here is one crossed over and the cross put to one side.

The CHAIRMAN. What did we do with the last one that was like that?

Mr. GARFIELD. I have forgotten; we have had so many controversies that I can't remember whether we allowed it or not.

The intention is very clearly expressed. He scratched out those he didn't want to vote for.

(Ballots counted, checked, and tallied.)

SELDOVIA.

The CHAIRMAN. Here is one, refused to vote after registration.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here are 2 ballots thrown out, taken out; one because it has 2 votes for senator, another one because of 2 votes for Delegate. The electorate is intelligent this time, because nobody had to help any of them to vote.

Mr. DAVIDSON. I was surprised to see that there was not so many Russians.

Mr. GARFIELD. Well, they're of Russian-Aleut extraction.

The CHAIRMAN. Well, I suppose we'll have to canvass the votes for Delegate and senate.

Mr. DAVIDSON. Anything on the back of those ballots, Governor?

The CHAIRMAN. Nothing on the back. One hundred and twenty-five. There is one too many, because there was one thrown out.

(Head of ticket canvassed, ballots counted, checked, and tallied.)

PALMER.

The CHAIRMAN. George White swore them all, but none of them signed.

Mr. DAVIDSON. This judge swore in these two, but they didn't sign. Smith was supposed to swear in White.



The CHAIRMAN. I think this is another case for the attorney general.

Mr. DAVIDSON. Well, Congress has decided that it don't make any difference.

The CHAIRMAN. Congress is not the law we're working under; we're working under a specific law.

Mr. DAVIDSON. Well, Congress has made a decision. It surely ought to be good practice to follow it.

Mr. GARFIELD. I think it had better go over.

The CHAIRMAN. Did they sign the back here?

Mr. GARFIELD. Yes; they signed the back there, all right.

The CHAIRMAN. I think it is a thing on which to get an opinion. I think this is a case for the attorney general.

(Canvass of returns from Palmer deferred.)

#### KENNECOTT (JUMBO).

Mr. DAVIDSON. Tally book and register are all right; properly signed up.

Mr. GARFIELD. Tally book and register are for Jumbo.

(Ballots counted, checked, and tallied.)

#### WILLOW CREEK.

(Canvass deferred, pending decision of attorney general on effect of failure to execute oaths by judges.)

#### COPPER CENTER.

Mr. DAVIDSON. Election register and tally book properly certified.

(Ballots counted, checked, and tallied.)

#### GRANITE MINE.

The CHAIRMAN. We have the same thing here. One fellow didn't sign.

Mr. GARFIELD. One judge didn't sign.

(Canvass deferred pending decision on the effect of failure of judge to sign on the election returns.)

#### LATOUCHE.

Mr. GARFIELD. All sworn in before a notary public here.

Mr. DAVIDSON. One election register and tally book, certified to properly.

Here is an oath swearing in the vote of A. C. Edgerton.

(Ballots counted, returns checked and tallied.)

#### SOURDOUGH.

The CHAIRMAN. No oath of one of the judges.

Mr. GARFIELD. He signed, but he didn't sign the jurat.

The CHAIRMAN. Oath not executed by one judge.

(Canvass deferred pending decision of attorney general on effect of failure of judge to sign on the election returns.)

#### GIRDWOOD.

Mr. DAVIDSON. One election register and tally book, properly certified.

The CHAIRMAN. I've got 42 votes here.

Mr. GARFIELD. Thirty-nine voted for the head of the ticket.

The CHAIRMAN. There is one blank.

Mr. GARFIELD. Forty-two registered.

The CHAIRMAN. Then, they haven't counted this one or this one [indicating]. These were laid face downward on the others. There are too many votes for senator and too many votes for Delegate. There ought to be 40; 39 votes for Delegate.

Mr. GARFIELD. That's right.

Mr. MARSHALL. Allow me, Governor—one of those votes that you set aside was for Wickersham.

The CHAIRMAN. It was counted for Wickersham. One was blank; you see, that one was thrown out. That one was counted, except for this [showing], and there is one blank.

Mr. DAVIDSON. Say, there should be another one.

The CHAIRMAN. Should be; ye. I guess that's right.

Mr. MARSHALL. There should be 40 for the head of the ticket.

The CHAIRMAN. Forty-two votes altogether and two rejected. Should be 40 votes for the head of the ticket. You're right. Well, now, we'll count the head of the ticket.

(Recount is made.)

Mr. GARFIELD. Forty-two is right.

The CHAIRMAN. Does that change it at all?

Mr. MARSHALL. Makes 18 instead of 17.

(Ballots counted, checked, and tallied.)

#### EYAK.

One election book, tally book, properly certified.

(One vote, which had been rejected by the election board because cross had not been placed in square, was counted by board.)

(Ballots counted, checked, and tallied.)

#### STRELNA.

Mr. DAVIDSON. One election register and tally book, properly certified.

The CHAIRMAN. There's only one person who could read and write. I think the judges all thought they had to certify the ballots. This fellow wanted to show that he could write and wrote "yes" after the one he wanted to vote for. I don't know what to do with that ballot; it doesn't affect the rest of the ticket.

Mr. DAVIDSON. I think it ought to be counted with the rest of them.

(Vote counted. Ballots counted, checked, and tallied.)

#### MATANUSKA.

Mr. DAVIDSON. One election register and tally book, properly certified.

(Ballots counted, checked, and tallied.)

#### ROOSEVELT.

Mr. DAVIDSON. One certificate not filled in.

(Deferred pending advice of attorney general.)

#### KUSKALANA, NO. 1.

Mr. DAVIDSON. One election register, tally book, properly certified.

(Ballots counted, checked, and tallied.)

#### JOOSE PASS.

Mr. DAVIDSON. One election register and tally book, properly certified.

The CHAIRMAN. Three judges of election and four votes.

(Adjournment taken at noon until 2 p. m.)

SATURDAY, FEBRUARY 8, 1919—2 P. M.

#### KUSKALANA, NO. 2.

The CHAIRMAN. Here is a certificate of the establishment of two polling places, two Kuskalana polling places [reads order of commissioner].

Mr. RUSTGARD. There is one election precinct, and two polling places in the same precinct?

The CHAIRMAN. Yes.

Mr. RUSTGARD. But the residents of that precinct could go to either polling place?

The CHAIRMAN. I imagine so. They're 16 miles apart.

Mr. RUSTGARD. Yes; I understand.

Mr. DAVIDSON. One election register and tally book, properly certified.

(Ballots counted, checked, and tallied.)

## BONANZA.

Mr. DAVIDSON. One registration book, properly certified; one election register and tally book, properly certified.

The CHAIRMAN. Here is a ballot, evidently intended to be a vote, on which the voter has written his own name—G. W. Maxwell. Can he very properly be thrown out. There are 21 ballots, including this one, and there should be 20 for the head of the ticket. There are none blank. Better mark "Rejected" on that ballot.

Mr. GARFIELD. Who is that fellow, George Maxwell?

The CHAIRMAN. G. W. Maxwell.

(Vote rejected. Ballots counted, checked, and tallied.)

## HOPE.

Mr. DAVIDSON. One election register and tally book, properly signed.  
(Ballots counted, checked, and tallied.)

## KENNECOTT.

Mr. DAVIDSON. One registration book, properly certified; one election register and tally book, certified.

The CHAIRMAN. Here is a ballot—nobody knows what's on the other side of it—with this written on the back [showing]. Nothing on the face of it. Haven't looked at the face. I headed off Judge Rustgard from looking at it, so we could decide that on its merits.

Mr. DAVIDSON (trying to read writing). I can't make that out.

The CHAIRMAN. The voter probably put his name on the back. I think that we might as well pay no attention to that.

Mr. GARFIELD. What is that on there for?

The CHAIRMAN. I don't know.

Mr. DAVIDSON. Looks like w-e-e-d----

The CHAIRMAN. W-e-l-a-r-h-a-m.

Mr. GARFIELD. Likely trying to spell Wickersham. There's Williams here [pointing to election register]. That is the nearest thing we can find to it.

Mr. MARSHALL. There is no name here that looks like it.

The CHAIRMAN. Who are the judges of election?

Mr. GARFIELD. Walker, Meeney, and Dunseth.

The CHAIRMAN. I don't think that means anything. Count it; let's see who its' for.

(Ballot turned over.)

The CHAIRMAN. Wickersham.

Mr. GARFIELD. He evidently intended it for Wickersham.

(Adjournment taken at 3 p. m. until 10 a. m. Monday morning.)

MONDAY, FEBRUARY 10, 1919.

The board met at 10 a. m. pursuant to adjournment.

The CHAIRMAN. Two years ago there were 21 questions put up to the attorney general for decision, some of which covered the question of the judges of election, which we have been annoyed with this time. The original correspondence was sent to Washington. I have nothing in the files except a carbon copy of a letter addressed to the attorney general by the canvassing board. I have asked the attorney general, who has returned to Juneau, to bring us up a copy—

Mr. DAVIDSON. I've got that, Governor.

The CHAIRMAN. Have you?

Mr. DAVIDSON. Yes. You see it's on file the same as this will be when it is written up.

The CHAIRMAN. Oh, I didn't know that; but anyway there's several questions that aren't covered by the previous decision.

Mr. GARFIELD. What are they? Questions which affect us now?

The CHAIRMAN. Questions which affect us now. For instance, the first is where one judge swore in the other two and was not himself sworn, and where all three judges signed the oath form and one signed the jurat.

Mr. DAVIDSON. I can bring that up at noon.

The CHAIRMAN. Well, I have asked Mr. Grigsby to bring us up a copy. He has gone down to get it.

Mr. GARFIELD. In that one case the jurat was signed but the oath was not.

(The chairman reads questions referred to the attorney general two years ago for an opinion.)

That covers several of our problems. In the meanwhile we can continue with the canvass.

#### MOOSE CREEK.

Mr. DAVIDSON. One registration book, properly certified; one election book and tally book, properly certified.

(Returns checked and tallied.)

#### KATALLA.

Mr. DAVIDSON. One election register and tally book, properly certified.

The CHAIRMAN. We have here a ballot partly rejected on account of blots, although it would seem that it is rejected on account of two having been voted for for senator.

Mr. GARFIELD. Forty-three voted for the head of the ticket.

The CHAIRMAN. It is impossible to tell whether that was voted or not. I think that it is a proper rejection.

Mr. DAVIDSON (examining ballot). This should have been counted.

The CHAIRMAN. This should have been counted, but it doesn't say which part of the ballot was rejected. I think it probably means that this part was not counted for representative and that neither the ballot for the senator and representatives was counted.

Mr. DAVIDSON. That is probably what they mean.

Mr. GARFIELD. What do they say on the back here?

The CHAIRMAN. Partly rejected.

Mr. GARFIELD. There is no question in my mind but that those two are blots on these two. Whether we can allow it or not is a question.

The CHAIRMAN. Well, I'm satisfied that he voted for two senators. These blots have been cast there and besides that you can see the scratch of the pen.

Mr. GARFIELD. I can feel the scratch of the pen.

The CHAIRMAN. Before we make a final decision on this, let's go to the other ballot [picking up ballot]. "This ballot partly rejected." The evident intent was to vote for Ward for senator. That would make this one here blot.

The intent of the voter was to vote for Frame, Noon, Patterson, and Slater. But that [indicating] is not crossed, nor is it in the square.

Mr. GARFIELD. That evidently came from here.

Mr. DAVIDSON. This one; yes.

Mr. GARFIELD. And this one came from here.

The CHAIRMAN. Yes.

Mr. GARFIELD. Because, you see this part of it's reversed from here. Folding it over would bring this cut in here upside down, or downside up. Here this V-shaped orifice is reversed here.

The CHAIRMAN. Here is a ballot [indicating] totally rejected.

(Blots are marked by board in brackets or circles.)

Mr. GRIGSBY. I have that document you sent for, Governor. There's five questions relating to the authority of judges to properly execute oaths.

The CHAIRMAN. Thank you; I think that will cover several of our difficulties. Here is one marked "This ballot rejected."

Mr. GARFIELD. Well, the only way we can arrive at a check is to check them.

The CHAIRMAN. Here is one ballot that votes for two candidates.

Mr. GARFIELD. I wonder if they gave a vote for each one of them in checking it and tallying it.

Mr. DAVIDSON. The only thing we can do is to check it.

The CHAIRMAN. I think we'll have to check this as to the head of the—

Mr. DAVIDSON. Oh, yes.

The CHAIRMAN. What will we do? On account of these partially counted ballots, will we have to make a complete canvass?

Mr. DAVIDSON. It appears the only thing we can do, because they have thrown out a lot of these. Of course, we couldn't add them.

The CHAIRMAN. We better make a complete canvass then, except for taking this part of the ticket that is correct.

(Complete canvass made with result that Connolly lost one, Price gained one, Ward gained two, Frame gained one, Ray gained one, Slater gained two, Small gained one.)

(The partially rejected ballots were counted where they applied.)

The CHAIRMAN. Shall we now take up some of these other precincts?

Mr. GARFIELD. Might as well.

Mr. DAVIDSON. Yes; because if we don't we'll have them coming in all the time and we might as well settle them.

The CHAIRMAN. Settle them; yes.

ROOSEVELT.

Mr. DAVIDSON. Certificate not filled in.

(The chairman reads section of election law providing that clerks of courts shall mail certificates to governor's office.)

I am in doubt as to whether we're held by law or by the ruling of Congress in the recent contest, because the House is the judge of its own membership, and they shall rule on the findings of equity rather than of law.

Mr. DAVIDSON. Well, but wouldn't, Governor, if they are the ones that have the last say, wouldn't it be the same as our court of appeals?

The CHAIRMAN. They're not a court; they are simply judges of their own membership. We may have to put up to the House the seating of the legislators from the second division.

Mr. GARFIELD. In my opinion, in relation to elections carried into Congress, in relation to the qualification of its Members, it is that it is not ruled entirely by equity or by law or by politics, but might be by either, and I have seen many distinct cases where it has actually been ruled by politics.

Mr. DAVIDSON. Well, you'll find that if you have read up on the holdings of Congress in the last 15 or 18 years, that they have disregarded politics and that a Republican House would seat a Democrat and that a Democratic House would seat a Republican. You'll find that, if you read up on that, that their holdings have been right along the same lines.

Mr. GARFIELD. Unaffected by party affiliations?

Mr. DAVIDSON. Yes.

Mr. GARFIELD. That is my opinion.

Mr. DAVIDSON. Well, if you'll read that, you'll find that they have cut that business out to a great extent. The last time they seated two Republicans, and it didn't make any difference whether it was a Democrat or Republican, and their holdings have been along precedents.

Mr. GARFIELD. I don't think we need consider that holding, though, in our deliberations.

The CHAIRMAN. I think we have to be guided by the law.

Mr. DAVIDSON. Well, I want the record to show that I want to follow the congressional decisions. If we want to be guided by the law, we have got to be guided by Judge Jennings's decisions, and these must be thrown out. In every case where there is any discrepancy it must be thrown out, and under his holding you can't come in with anything that isn't in these returns. Now, you can't take in any later. That's what his holding was.

The CHAIRMAN. Any "later" what?

Mr. DAVIDSON. Anything that Mr. Grigsby holds here. They can finish these afterwards; they can certify to them afterwards, but Jennings held that you couldn't.

The CHAIRMAN. I am not familiar enough with Judge Jennings's decision to be able to express an opinion, but I certainly would be guided in any action which I took by the advice of the attorney general, as he is the constituted adviser of this body.

Mr. GARFIELD. Let me ask a question. This needn't go into the record, but did the action of the congressional committee in the recent Delegate election for the House pass in any way upon the legality of the election laws of Alaska?

Mr. DAVIDSON. No.

The CHAIRMAN. No.

Mr. DAVIDSON (continuing). They kept away from that.

Mr. GARFIELD. Was there any allusion made to that in any of their proceedings?

Mr. DAVIDSON. Yes.

Mr. GARFIELD. In what way?



Mr. DAVIDSON. Well, I saw some place in one of the reports where they made a report that they had taken that into consideration. Some of them thought it was legal, and others thought it wasn't. Is that the way you understand it [to the chairman]?

The CHAIRMAN. My understanding is that what they decided was that the voter, where his plain intent to vote was shown, should not be disfranchised by any error on the part of the judges of election. There was a case at either Vault or Bonfield, I have forgotten which, where the certificate was not filled out and rejected by the court, but counted by the committee on contests.

Mr. DAVIDSON. That was a case where we took the certified copy of the clerk of the court and counted them, and Judge Jennings held that this—we took the certified copy that the law specifies we should count, and he held that we could not do that in that case. Was that Bonfield you were speaking about?

The CHAIRMAN. It was Vault.

Mr. DAVIDSON. Vault.

The CHAIRMAN. Then, I suggest that we open these returns which we have before us—reopen them, and put the question up to the attorney general in writing.

Mr. DAVIDSON (interposing). The attorney general's opinions on——

Mr. GARFIELD (interposing). Specific cases, as shown.

The CHAIRMAN. As shown in the returns.

Mr. DAVIDSON. The attorney general's opinion was given before any decision by Congress. Now, he may change his opinion, you see, on the——

The CHAIRMAN. Yes.

Mr. GARFIELD. If that has the effect of law, it might, but I didn't consider that it did.

The CHAIRMAN. Suppose we open those envelopes now, and put those questions right up to the attorney general.

Mr. GARFIELD. That is, where they are not covered by these answers?

The CHAIRMAN. Well, put them up anyway. As Gen. Davidson suggests, the opinion of the court or the opinion of Congress may change the rulings of the attorney general.

Mr. GARFIELD. I didn't know but what Grigsby had indicated to you that this same thing would apply.

The CHAIRMAN. No; I intimated to Grigsby that they might, and he said that they might, and I asked him for a copy of his opinion.

(Roosevelt returns considered.)

The CHAIRMAN (for submission to the attorney general). Where the certificate at the foot of the election register is not filled out, but where the certificate of the judges of election has been properly——

Mr. GARFIELD. I'd say "filled out and signed."

The CHAIRMAN. Yes; filled out and signed; but where the certificate of the judges of election returns has been properly certified to, should the vote in this precinct be canvassed?

Mr. DAVIDSON. That, I think, covers it.

#### SOURDOUGH.

The CHAIRMAN. What was the question on this, I wonder? Oh, where one judge of election had not——

Mr. GARFIELD (interrupting). Or where the jurat for one judge of election——

The CHAIRMAN (interrupting). Yes; where the jurat for one judge of election has not been executed, should this precinct be counted—where the jurat of one judge of election has not been accomplished, but where the certificates were properly filled out.

Mr. GARFIELD. And signed.

The CHAIRMAN. And signed.

#### PALMER.

The CHAIRMAN. Where none of the judges of election signed the oath of office, but where the jurat has been properly filled in?

Mr. GARFIELD. And signed, or signed.

The CHAIRMAN. Where the jurat has not been properly signed. In other words, the judges of election evidently intended to swear each other, but the affiant has not affixed his signature. The certificates were properly filled out and signed.

Mr. GARFIELD. I would suggest, there, "but where the judges otherwise fully qualified and acted."

The CHAIRMAN. Well, do you want to change that question?

Mr. GARFIELD. I don't think it's necessary.

Mr. DAVIDSON. He'll probably take that up.

Mr. GARFIELD. He doesn't know which precinct it is, it occurs to me.

The CHAIRMAN. We're just putting up an abstract case.

#### SKAGWAY.

The CHAIRMAN. Where, although a challenged voter swore in his own vote, his vote was rejected by the judges of election, should this vote be counted? It is noted on the challenge oath that the affiant complies; that the affiant claims to have been a resident of the voting precinct for 30 days next preceding this election. It is noted that, although affiant makes the claim of having complied with the law in regard to residence, in stating that immediately prior to living in Alaska, the required length of time and in the precinct, that he came from Dawson, Yukon Territory, where he had resided for four years and six months.

Mr. DAVIDSON. Pardon me, Governor; wouldn't it be just as well to put that, follow that by saying, "this is the form" [exhibiting oath]?

The CHAIRMAN. Yes; we'll come to that later.

Mr. DAVIDSON. It's quite hard for a man to understand unless he sees that certificate.

The CHAIRMAN (dictating). There is herewith submitted a copy of the challenge oath, wherein the voter makes the proper affidavit, but his ballot has been rejected by the judges of election. Can this vote be counted?

#### BARANOF—REOPENED.

Mr. RUSTGARD. Will you permit me to call your attention to the fact that this certificate, signed by Joseph McComb and W. H. McBlain, certifies that the judges, Joseph McComb and W. H. McBlain were not present—failed to be at the election.

The CHAIRMAN. Oh, they signed everything, I think, because they signed the certificates. They have also signed the certificate that they didn't have the official ballots. They signed every blank where it says "judges of election."

Mr. GARFIELD. They signed all the ballots, too?

The CHAIRMAN. No; not this precinct. I don't think, Judge, we need take that into serious consideration, because they have also signed as a board in every case where it is required to be signed. I think we can proceed with that now.

(Ballots counted, returns checked and tallied.)

#### WASSILA.

(Ballots counted, returns, checked, and tallied.)

The CHAIRMAN (dictating for attorney general). Where a pencil line has been drawn through one or more names, leaving the proper number of names to be voted for blank, should this ballot be counted? Does that describe it?

Mr. DAVIDSON. Yes; I think that describes it.

The CHAIRMAN (continuing). For instance, in voting for Territorial senator, where there are four candidates and a vote can be cast for one only, the names of the three candidates have a pencil line drawn through them.

Mr. GARFIELD. Why not say "have been erased by a pencil line?"

The CHAIRMAN. It hasn't been erased.

Mr. GARFIELD. You might say "scratched with a pencil."

Mr. DAVIDSON. I believe I'd say, too, that where the name, at the left of the name are no marks whatever.

The CHAIRMAN. And no cross appears opposite the name, the remaining name, or the unscratched name, or the—

Mr. GARFIELD. Unobliterated.

The CHAIRMAN. Then the next question: Where ballots are similarly prepared but the cross appears opposite the unscratched-out name.

Mr. DAVIDSON. That covers all the questions, don't it?

(Returns from Eska, Chichagof were similarly defective and were not reopened, pending opinion of attorney general.)

Mr. Fox (bringing forth another package of election returns). Sheep Creek.

Mr. GARFIELD. What was the matter with that?

Mr. RUSTGARD. That is that Thorensen ballot rejected because he hadn't been in the precinct 30 days.

The CHAIRMAN. He swore in his vote.

Mr. DAVIDSON. Yes; that was the precinct where he wasn't in his own precinct, but voted in another precinct.

The CHAIRMAN. Where a ballot was rejected because the voter, while otherwise qualified, had not been in the precinct in which he attempted to vote for a period of 30 days.

Mr. GARFIELD. What was the nature of his absence; was it on account of his business?

The CHAIRMAN. No; he apparently had gone over to work there.

Mr. Fox (looking over election returns). That seems to be the last lame one.

#### KNIK.

Mr. DAVIDSON. Election register and tally book properly certified.  
(Ballots counted, returns checked and tallied.)

#### M'DOUGALL.

Mr. GARFIELD. This oath here is not executed.

The CHAIRMAN. Well, we've already asked that question.

(Canvass of returns from this precinct deferred pending opinion of attorney general.)

#### CHICKALOON.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here is a ballot partially rejected. I think it is perfectly proper; and the rest of it's all right—five names for representatives. But here, among those ballots counted, I find where there's a duplicate count for Delegate and for senator.

Mr. GARFIELD. Duplicate cross for Delegate and senator?

The CHAIRMAN. Yes; and there is no notation or note in any way, shape, or form. I think we'll have to check. We'll have to make a tally of the head of the ticket and senator.

(Canvass made accordingly.)

Mr. GARFIELD. Forty instead of 41.

The CHAIRMAN. Does that include the blank?

Mr. GARFIELD. Oh, yes; 41 including the blank.

Mr. DAVIDSON. That makes it right.

The CHAIRMAN. Yes; that's right.

Mr. GARFIELD. So that will change Sulzer to 24 and give Wickersham 14, a loss for Wickersham of 1; Price loses 1 also.

(Adjournment taken until 2 p. m.)

#### AFTERNOON—2 P. M.

The board met, pursuant to adjournment.

#### SUSITNA.

Mr. DAVIDSON. One election register and tally book properly certified.  
(Ballots counted, returns checked and tallied.)

#### CACHE CREEK.

The CHAIRMAN. Certificate of register missing.  
(Canvass deferred.)

#### TALKEETNA.

Mr. DAVIDSON. One register and tally book properly certified.  
(Ballots counted, returns checked and tallied.)

## FOURTH DIVISION.

## DEADWOOD.

The CHAIRMAN. Here is another case of the judges of election signing everything in sight.

Mr. RUSTGARD. Did they certify that ~~they~~ weren't there?

The CHAIRMAN. Here [showing] they certified that they held an election, but there [showing] they certified that they weren't there.

These are undoubtedly official ballots, because you can see where the stubs have been torn off.

Mr. DAVIDSON. It only shows one oath in the printed books of the fourth division, and the three judges signed the oath, and they're all sworn by one of the judges, including himself, C. C. Taggart. I suppose they'll be all the way through like that.

Duplicate election register and tally book in proper form.  
(Ballots counted and returns checked and tallied.)

## MILLER HOUSE.

Mr. DAVIDSON. One certificate of election of judges when original appointees fail to appear and qualify, properly signed.

Mr. GARFIELD. One duplicate election register and tally book, properly certified and sworn to.

## BROOKS.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here is one torn ballot marked "not counted."

Mr. DAVIDSON. Well, there wasn't anything to count it for, was there?

The CHAIRMAN. Yes.

Mr. DAVIDSON. Oh, yes.

The CHAIRMAN. Marked on the right-hand side. Here is one ballot marked on the right-hand side "not counted," and here is one that was counted which seems to be improperly marked. That was at the head of the ticket. We've been counting these ballots, but there is one mark there that's improper.

Mr. DAVIDSON. Under our ruling we should throw that out.

The CHAIRMAN. Here is one that was counted that should not be counted and here are two which under our ruling should be counted. This one [showing] is marked on a blank and this one marked opposite Wickersham's name.

Mr. HELLENTHAL. How many votes are there that are not marked behind?

The CHAIRMAN. Two.

Mr. MARSHALL. Do they run---

The CHAIRMAN. Run through almost every voting precinct. In almost every instance the judges of election counted them. In fact, I only know of one precinct outside of this where the judges of election have not counted them.

Mr. HELLENTHAL. I believe that that is an important question. If it can be done—that question about those ballots marked behind the name could be submitted to the attorney general, so that he could carefully look into this before they are counted. It would be a mighty good thing for both candidates if that was done. It is an important thing for both parties to get these ballots canvassed, so there won't be another fight in Congress and so that they won't have to spend their money and energy on it in examining witnesses and gathering information.

The CHAIRMAN. It would mean not a canvass, but an entire——

Mr. HELLENTHAL (interposing). Recount of the votes.

The CHAIRMAN (continuing). Recount of the votes.

Mr. HELLENTHAL. Well, that's quite a big job. I don't blame the board for not wanting to do it. Of course, the board can do this: As it now stands the votes are counted——

The CHAIRMAN (interposing). No; these votes are not counted.

Mr. HELLENTHAL. But I say, as it now stands these votes have been counted by the board.

The CHAIRMAN. Except with one other exception.

Mr. HELLENTHAL. What the board can do to settle the thing is to go and reserve that question and let the attorney general look it up——

Mr. GARFIELD (interrupting). We have already put that up to him.

Mr. HELLENTHAL (continuing). And if the attorney general finds that they should be counted, then you have nothing more to do; and if he should find that they shouldn't be counted, why, that's an after consideration. [Laughter.]

Mr. DAVIDSON. What do you want to put up on us?

The CHAIRMAN. In this particular instance there is no harm done to the head of the ticket, because we canceled one Wickersham vote and added another Wickersham vote and the third for Connolly.

Mr. GARFIELD. It's an even break.

Mr. HELLENTHAL. Oh, I guess, as a matter of fact that it would be an even break anyway.

The CHAIRMAN. They seem to be.

Mr. HELLENTHAL. Well, could the board take such action? Just simply say, "We'll count these votes with the understanding that if the Attorney General decides that they are not regular such further action may be taken as may be necessary to get the vote in the legal shape."

The CHAIRMAN. Would you put that up to the attorney general?

Mr. HELLENTHAL. Well, what I mean is not only put the question up to the attorney general, but also keep your canvass in such condition that it is not final until such time as he shall have passed on it. You don't have to count them for a while. If he says "Count them," there is nothing more to do. There are two questions which enter into that, and that is the power of the board to review this count and the other is the validity of the ballot itself. And the attorney general may want to look up both of these questions very carefully before he renders an opinion on them. It would be better if the attorney general had some time to look them up. I don't think he ought to be hurried any.

The CHAIRMAN. Well, there'll be plenty of time regarding the head of the ticket, because there will be no certificate issued to the head of the ticket until we naturally hear—

Mr. HELLENTHAL (interposing). From everybody you can hear from.

The CHAIRMAN. From everybody we can.

Mr. HELLENTHAL. Well, I guess that would be as good a way out of that situation as any. Of course, where you get some ballots where a man voted for two men, you know what to do with that kind of vote, but any other one where the cross is behind the ticket, for instance, it's a little close question.

Mr. DAVIDSON. Suppose now that we put this question up to him. That is a double-headed question, and he would decide that we should recount the ballots, we would have no canvass at all when we got through.

Mr. HELLENTHAL. I don't think he'll hardly hold that; but he might. It's a question that merits consideration.

The CHAIRMAN. Well, let's ask him the question anyhow.

Mr. GARFIELD. Well, if the thing is going to get in that kind of condition, I think we better suspend any further actions until we get these questions settled—determined. We're not making any headway if we have to go back.

The CHAIRMAN. Well, we have decided to count these.

Mr. GARFIELD. Yes; we have, but—

The CHAIRMAN. Simply on the recommendation of Mr. Helleenthal, we can keep on counting and at the same time submit the questions to the attorney general, because if he rules adversely we have got to make a complete recount of every precinct.

Mr. HELLENTHAL. If he holds it should be counted, there is nothing more to do.

The CHAIRMAN. It indicates, to my mind, the intention of the voter.

Mr. HELLENTHAL. Well, that's a question.

Mr. GARFIELD. I would rather stand right where we are.

Mr. HELLENTHAL. The point about the Australian ballot, the purpose of the Australian ballot, is to see that no one votes unless he votes right, and to prevent him from voting illegally. The presumption is that when they established the Australian ballot that everybody would have the right to vote. It would give every man a chance to vote, but he had to vote according to the regulations laid down, so that there would be no illegal voting. Whether these votes should or should not be counted I wouldn't want to say offhand, and I don't think that the attorney general would without first looking it up carefully, because that is a pretty delicate question. It's delicate because in the first place you can see who the fellow intended to vote for, so that that intention can't very well be overruled. As to Davidson's position, I will say that those votes should be counted; those votes should be counted unless the legal decisions of the



courts are clearly to the effect that they should not be counted. That is the view I would take of it. If they are to the effect that they should not be counted—

Mr. GARFIELD. We won't know where we're at.

Mr. HELLENTHAL. I tell you you haven't got a darn bit the best of the rest of us on that point. I don't know, and I wouldn't venture an opinion unless I would look it up very carefully. It is a rather close question. I don't think Mr. Grigsby or Mr. Rustgard would want to give an opinion, either, without looking it up. The board has that power to inquire into the regularity of the returns and to canvass the ballots, and so so, and all that sort of stuff, but I never looked up the question as to whether that power to inquire into the regularity of the ballot itself carried with it any other power, and I wouldn't want to render an opinion without looking it up carefully.

Mr. GARFIELD. Now, analyzing this a little further, it seems to me that not only these books and these certificates, but the ballots as well, are a part of the returns that come in to us for canvass.

Mr. HELLENTHAL. Yes.

Mr. GARFIELD. Now, if the question is deep enough to cover that, the proposition that we are to inquire into the legality of the vote in all its phases—if the words "searchingly inquire" means that it extends to the legality proposition all the way through, every element of it, why, then, of course, it is clearly our duty to do so. If it does not, then we're simply to take the returns on the face of them and inquire if they're all properly counted and properly counted as counted here and to certify to them.

Mr. HELLENTHAL. Now, in order to determine what the meaning of the word "canvass" is, as used in our statute, you have to go a step further and determine, in view of the fact that Congress used two words, "canvass and compile." Now, to compile means simply to add them together—

Mr. GARFIELD (interrupting). Computing.

Mr. HELLENTHAL. Computing. Now, you have got something else to do besides computing, because otherwise the word "compile" would have been used by itself. They use an additional word, "canvass." Here that word "canvass" means something else than compute. It means an inquiry into the returns themselves. If that is true, then there is a good reason for it. I don't say that there is; but if there is a good reason, it is the duty of the canvassing board to pass upon everything that is presented upon the face of the returns. That is to say, if the character of the marks upon each ballot, because they are the part of the returns, the validity of the certificate, and all that sort of thing that appears on the face of the returns, if they are irregular, the canvassing board couldn't hear evidence to determine whether somebody has been practicing fraud upon us. That is settled on the face of the returns. That is the function of Congress or the courts or wherever the question arises, but where the matter arises on the face of the returns, such as marks on the ballot or anything of that character, or anything that shows fraud where you don't have to go outside to get evidence. That's what I mean. I'm not sure but that the canvassing board has authority to pass upon it wherever the thing is such that you don't have to go outside of the face of the returns. That looks to me like a reasonable view to take of it, but whether that is the correct view I wouldn't undertake to say.

Mr. GARFIELD. The undetermined point in my mind is this: Where we have the right under the law to compile and also the right under the law to searchingly inquire into the returns, whether we have the right to ascertain as to the legality of the returns in all the different phases or whether we should act by compiling, after inquiry, as to whether proper returns have been made by the election officers.

Mr. HELLENTHAL. Here's the idea.

Mr. GARFIELD. Not as to the legality but as to the numerical position of the returns in relation to the voting capacity of the precinct—of the votes allotted to the candidates.

Mr. HELLENTHAL. Here's the idea: If it is the duty of the canvassing board to inquire into the returns, all the returns, then the law must presume that the canvassing board should do something because of the result of that inquiry; that is to say, they must have also the right to act. If they have the right to look into these things, then it must also be their duty to pass their judgment upon it. Wouldn't you think so?

Mr. GARFIELD. Yes.

Mr. HELLENTHAL. That would follow.

Mr. GARFIELD. That is to ascertain who is elected and who is not elected.

Mr. HELLENTHAL. According to the fact of the returns.

Mr. GARFIELD. The face of the returns.

Mr. HELLENTHAL. My offhand opinion is that the canvassing board has a perfect right to inquire into all these ballots as to the character of the marking.

Mr. GARFIELD. In every particular.

Mr. HELLENTHAL. In every particular.

Mr. GARFIELD. And pass upon them.

Mr. HELLENTHAL. And pass upon them. Now, they can't call witnesses.

Mr. GARFIELD. We can't go outside of the evidence.

Mr. HELLENTHAL. You can't do that, but that is only an offhand opinion. I'm just giving you that because it looks reasonable to me; because the courts have always followed reason. They should, but they don't.

The CHAIRMAN. Do you hold that the canvassing board has not the power to review rejected ballots and determine whether they should be counted or not?

Mr. HELLENTHAL. My judgment is that the canvassing board has that power. That is my judgment—that they have the power not only to review ballots that have been rejected, but also ballots that have been counted. If they have the power to review the one, they have the power to review the other.

The CHAIRMAN. Here is a case in point: Here are two ballots rejected—probably for the reason that they are marked on the right-hand side, instead of in the square, as indicated. Most of the, practically all of the, precincts have counted that ballot, but the judges of this precinct have thrown them out. The question arises whether we have power to go over the judges and recount and count those ballots or not, and then another instance arises where a ballot manifestly improper has been counted and the board has taken it out.

Mr. HELLENTHAL. Well, it would appear to me that the power to canvass or rather the power to inquire into the returns carries with it the power to act upon it, to act upon the information obtained as a result of that inquiry; that is to say, if the board has a right to examine these returns to see how they are marked; they also have a right to determine how the vote should be counted. If they have the right to examine into the votes that have been rejected, it also has a right to inquire into the votes that have been counted and determine whether they should be counted. Now, this is my offhand opinion merely. It would seem that way to me; but as I said, there may be authority to the contrary and if there is, why I'm willing to yield to it.

The CHAIRMAN. Another case that came up this morning: The board found that a ballot marked for two candidates for Delegate had been counted for one of the Delegates, one of the candidates. The board made a retally of the votes for Delegate and threw out that one vote. There is quite a conflict in the various opinions there and it would be much simpler for the board if we could simply take the returns of the judges—

Mr. HELLENTHAL (interposing). And add them.

The CHAIRMAN (continuing). And add them.

Mr. HELLENTHAL. But still, if the board only did that, they would only comply with that part of the statute that says they must compile them. If they didn't do any more, it would make an adding machine out of them. They wouldn't canvass them. In most places there is a provision under which any of these disputed questions can be readily brought in before some tribunal, such as a court. In this jurisdiction there is no such provision. Of course, Congress has always the power to inquire into everything in relation to the election of one of its Members, but that is a very cumbersome remedy and means a contest and there ought to be some tribunal that can determine these preliminary questions so as to relieve parties of this enormous expense and cost.

The CHAIRMAN. It has been the desire of the board to so canvass the returns that there will be no possibility of a contest.

Mr. HELLENTHAL. I think the board is entirely justified in pursuing that course, because I think the word "canvass" can be given a broad enough construction. I would, however, submit that question to the Attorney General and have him look it up carefully and determine it.

The CHAIRMAN. The board has been particularly careful to examine into challenged votes or rejected votes, for the reason that under the law providing penalties for illegal voting, the most drastic action we can take is to give a man a slap on the wrist.

Mr. HELLENTHAL. Yes.

Mr. GARFIELD. It seems to me we ought to begin a consideration of this thing from the bottom up, and we can arrive then at the purpose the board is striving for. What is the purpose? What is the definite intention of its actions? That is to arrive at the persons upon the ticket who have received the greatest number of votes—

Mr. HELLENTHAL (interrupting). Legal votes.

Mr. GARFIELD (continuing). So that the board, upon the completion of said canvass, can declare the person who has received the greatest number of votes for Delegate, for instance, to be duly elected.

Mr. HELLENTHAL. Yes.

Mr. GARFIELD. Now, that is the ultimate purpose of the board. Now, here:

"That the governor, the surveyor general and the collector of customs for Alaska, shall constitute a canvassing board for the Territory of Alaska to canvass and compile in writing the vote specified in the certificates of election returned to the governor."

Now, are we to take that literally or are we to construe it more liberally? If we are to take it literally, we can't go outside of the certificate which is furnished us here in the returns.

Mr. HELLENTHAL. Yes.

Mr. GARFIELD. If you place a more liberal construction upon it, we can go into the vote or any other part of the returns.

Mr. HELLENTHAL. Well, that is a question that is rather delicate. I wouldn't want to venture an opinion on it without a careful examination.

Mr. GARFIELD. I don't understand the situation, but my intention has been this, in acting upon the board: That we should arrive, as near as possible, through all the different phases of the returns which are brought before us, to see what the intention of the voter is, and to give him every vote that he is entitled to, in accordance to the returns as we see them, using the broadest and most liberal judgment possible, excluding all ultralegal considerations.

The CHAIRMAN. You got any remarks to make, Mr. Rustgard?

Mr. RUSTGARD. Why, I don't consider it my privilege to instruct the board.

The CHAIRMAN. We are not asking you to instruct the board; we're asking you for your idea, the same as Judge Helleenthal has expressed his.

Mr. RUSTGARD. Inasmuch as the board signified its intention to submit the question to the attorney general for final determination, I would prefer to be excused at this time from expressing an opinion.

The CHAIRMAN. The board has not yet determined to submit it to the attorney general.

Mr. RUSTGARD. So far as the marking of these ballots on the right-hand side, instead of on the left, is concerned, the board has adopted an action which seemed to me very reasonable.

The CHAIRMAN. Then your opinion is that the board should continue the method that it has been employing?

Mr. RUSTGARD. I construe Judge Jennings's decision to mean that it was the duty of the board to examine the ballots and decide upon their validity.

The CHAIRMAN. That decision was evidently overruled by Congress.

Mr. HELLENTHAL. What the canvassing board could do is to go ahead and canvass the vote so as not to have any delay and keep a careful record of the marked ballots so that you would know where they are and in what precincts.

Mr. DAVIDSON. That's the trouble; we have already canvassed some 50 or 60.

Mr. HELLENTHAL. As to those, I wouldn't pay any attention to them until I got the opinion of the attorney general.

Mr. DAVIDSON. I don't think you could hardly find a precinct that has not got that kind of ballot in.

Mr. HELLENTHAL. They are so universally distributed?

Mr. DAVIDSON. Yes.

The CHAIRMAN. So far as I can make out, it's six of one and a half a dozen of the other.

Mr. DAVIDSON. The same thing happened all the way through before.

Mr. HELLENTHAL. Well, the only interest I have for Mr. Sulzer is to get the thing in such shape that the matter will be properly decided here, so it wouldn't have to be decided in Washington. That's the situation.

The CHAIRMAN. I think we can continue with the method outlined and we can submit the question to the attorney general for his opinion.

Mr. HELLENTHAL. You can proceed as you have been going and submit this matter to the attorney general. Then, if the attorney general holds that your

method is all right, then you have nothing further to do. If he holds that you have something else to do, then you can take such action as the necessities of the case require; provided that the board takes the position that none of this work is final until——

The CHAIRMAN. I'm very glad to have the representatives of either party bring to my notice any objection regarding the method of canvassing which may arise, and where there is doubt, I think we should refer the matter to the attorney general.

Mr. HELLENTHAL. I think so.

The CHAIRMAN. I suggest, then, that we proceed with the method that we have been employing and write to the attorney general——

Mr. GARFIELD (interposing). In relation to that particular feature?

The CHAIRMAN. In relation to that particular feature.

Mr. HELLENTHAL. Also the feature of the powers of the canvassing board?

The CHAIRMAN. Also the feature of the powers of the canvassing board.

Mr. HELLENTHAL. And then, when you get his opinion, you can take such action as may be necessary to conform to it.

The CHAIRMAN. Any other question that has arisen in this.

Mr. GARFIELD. I think that covers it.

(Ballots counted and returns checked and tallied, but no agreement reached until a recount was made, which resulted in a gain of one for Wickersham and one for Connolly and a loss of one for Sulzer.)

#### LOUDEN.

Mr. GARFIELD. Here is a case where they swear, but there is no date on the jurat.

Mr. DAVIDSON. Registration books——

Mr. GARFIELD. No certificate here, and the jurat isn't signed.

The CHAIRMAN. Is the tally made?

Mr. GARFIELD. The tally's made.

Mr. DAVIDSON. On the other hand, we have the certificate right here of the registration book.

Mr. GARFIELD. The names don't appear on the registration book at all.

Mr. DAVIDSON. But we have the original book here.

Mr. GARFIELD. Yes; this [showing] certificate isn't signed, but the certificate of result is signed over here [indicating].

Mr. DAVIDSON. Well, take the two and patch them together and you can make one, alright.

Mr. GARFIELD. Yes; the two together makes a complete record.

Mr. DAVIDSON. Don't you think that ought to go, Governor.

The CHAIRMAN. I haven't looked at it yet [looks]. The jurat is not attached to the oath of office by the judges of election.

Mr. DAVIDSON. Properly signed but——

The CHAIRMAN. Properly signed but not sworn to.

Mr. HELLENTHAL. No election register?

The CHAIRMAN. No election register except that the registration book is the original.

Well, we will put this up to the attorney general. I notice also in here that one person signs by mark and that none of the ballots are certified to by the judges of election as to assistance in making out the ballot.

Mr. RUSTGARD. Election register shows that he has signed by making a mark.  
(Returns from this precinct laid aside pending opinion of attorney general.)

#### FAIRBANKS CREEK.

Mr. DAVIDSON. One duplicated election register and tally book, properly certified and sworn to.

(Ballots counted and returns checked and tallied.)

#### SAICHAKET.

Mr. DAVIDSON. One election register and tally book, properly certified.

(Ballots counted and returns checked and tallied.)

## WISEMAN.

The CHAIRMAN. This is just a notice of the establishment of the precinct.

Mr. GARFIELD. Seems to be certified all right.

Mr. DAVIDSON. Duplicate election register and tally book certified.  
(Ballots counted and returns checked and tallied.)

## COLDFOOT.

Mr. DAVIDSON. One election register, and tally book, certified, excepting that one judge swears two other judges and also swears himself.  
(Ballots counted and returns checked and tallied.)

## RICHARDSON.

Mr. DAVIDSON. One election register and tally book properly certified and sworn to.

(Ballots counted and returns checked and tallied.)

(Adjournment taken until 10 a. m. to-morrow morning, February 11, 1919.)

TUESDAY *February 11, 1919.*

The board met at 10 a. m., pursuant to adjournment.

The CHAIRMAN. Mr. Fox, let's see some of those returns which there was some doubt about, affecting the jurat.

Mr. Fox. All right; here's one.

## SHEEP CREEK.

The CHAIRMAN. What is the matter with that?

Mr. MARSHALL. That was the vote of that man Thorensen that was not in the precinct 30 days.

Mr. DAVIDSON. That is where he votes in another precinct outside of Juneau.

Mr. GRIGSBY. This is all you know about it?

The CHAIRMAN. That's all we know about it.

Mr. GRIGSBY. You don't know whether the vote was challenged or whether some judge——. Of course, you can't identify the ballot unless it was marked. If it wasn't voted, there isn't anything to it.

The CHAIRMAN. "Thorensen rejected." That's all it says.

Mr. GRIGSBY. Oh, didn't he vote?

The CHAIRMAN. He registered, but he didn't attempt to swear in his vote. Evidently there was no evidence that he attempted to swear in his vote. Here is a ballot: Inclosed ballot has not been considered in the final result by reason of having been adjudged totally blank." It's one of those ballots where the name is scratched; has one vote for senator, scratched out and left that [indicating] blank; no distinguishing mark against it. I'm the only person that has seen that.

Mr. GRIGSBY. There's others like that, too?

The CHAIRMAN. There's others like that, too; but up to this time there has been one counted for Wickersham and one for Sulzer; then this other one came up and I didn't put it in for fear that personal preference might influence somebody's judgment or action.

Mr. GRIGSBY. Well, those questions are such that you couldn't answer them offhand, anyway?

The CHAIRMAN. This one there seems to be no attempt to swear in his oath [Oath opened.] "I resided in said Juneau 5 months; I resided in Sheep Creek 8 days."

Mr. GARFIELD. That involves the question of the difference between precinct and division.

The CHAIRMAN. That involves the question of the difference between precinct and division.

Mr. GRIGSBY. He swears that he resided in the precinct?

The CHAIRMAN. No; but he says he has resided in the Sheep Creek precinct 8 days.

Mr. GRIGSBY. In the body of the oath he says that he has been a resident of the voting precinct 30 days.

The CHAIRMAN. Yes; but there is a mix-up there—precinct and division.

Mr. GRIGSBY. Well, he didnt' vote.



The CHAIRMAN. He tried to vote; tried to swear in his vote.

Mr. GRIGSBY. That hasn't been submitted to me—that question?

The CHAIRMAN. Yes.

Mr. DAVIDSON. Yes; that's one of them.

Mr. GRIGSBY. Well, of course, there wasn't anything to be submitted to me until it was opened.

The CHAIRMAN. Well, not in this case, but there's others.

Mr. DAVIDSON. There are other identical cases.

Mr. GRIGSBY. I thought the case submitted to me was where a man had sworn in his vote and then was rejected. But here they found some fault with the oath, because his oath is contradictory on its face. There wasn't anything the matter with the oath, the other one. The oath you inclosed me was in perfect form, as far as I could see. I looked through it once and the oath seemed to be in the usual form, and evidently they threw it out because they decided that he was lying.

Mr. DAVIDSON. Although he says that he has been there 30 days—in Sheep Creek precinct.

The CHAIRMAN. Now, of course, there is a conflict between precinct and division.

Mr. GRIGSBY. Well, you can't tell anything about this. I don't think he has initialed this inclosure and affidavit there, though it might be a notation of a judge, you know. Of course, I can consider that, but he swears that he has been in the precinct 30 days. If that is a part of his oath, I think it contradicts it; if it is not a part of his oath, it don't.

Mr. DAVIDSON. In this case, they allowed him to vote, allowed him a ticket. Wouldn't that be casting a vote? He has done everything he could do—if they wouldn't put it in the box.

Mr. GRIGSBY. I don't know; I suppose a challenge could be interposed at any time up to the time he actually votes. I think, though, if I recollect right—no, I'm thinking of the Territorial statute. The registration statute requires a man to sign the register when he gets the ballot and then he virtually takes an oath as to his qualifications in signing that registration book. But I think that the challenge provided for by Federal statute can be interposed at any time before a man actually casts his ballot, if I'm not mistaken.

The CHAIRMAN. You want to give us an opinion?

Mr. GRIGSBY. No; not except in writing.

The CHAIRMAN. Well, shall we put that up to you?

Mr. GRIGSBY. Well, if you desire.

The CHAIRMAN. What is your idea on that, General.

Mr. DAVIDSON. Well, of course, this oath here is faulty; there is no question about that. On the face of it, it is faulty, but I don't know.

Mr. GRIGSBY. As that voter was only 8 days in that voting precinct, there is no necessity of sending it to me, because I shall hold that 30 days' residence in a precinct is ample.

The CHAIRMAN. Well, I think we can accept this, as the judges of election have.

Mr. DAVIDSON. Well, I'm perfectly willing. They balled it up so.

Mr. GARFIELD. There is only one question, and that is the question of precinct and division being synonymous. If it is, I think his vote should be counted.

Mr. CHAIRMAN. Well, we'll put that up to the Attorney General.

Mr. GRIGSBY. What?

The CHAIRMAN. Whether precinct and division are synonymous—whether a man that has been 30 days in a division can vote.

Mr. GRIGSBY. Well; I have instructed all the election officials that 30 days' residence in a precinct is required.

Mr. DAVIDSON. Oh, you did?

Mr. GRIGSBY. Yes.

Mr. DAVIDSON. How about Sulzer voting down at Ketchikan?

Mr. GRIGSBY. I don't know. If he voted where he didn't reside 30 days, it isn't good. I know lots of them that voted because the Territorial statute says they can. The Territorial statute contradicts the Federal statute. Thirty days in a division. The Federal statute is, by reference, incorporated into the organic act.

The CHAIRMAN (reads Gen. Grigsby's instructions sent out to inform voters of necessary qualifications, etc.). (Reads):

"Rejected ballot of O. T. Thorensen, by reason of not having resided in the precinct, has not been included in the final totals."

Mr. GARFIELD. I think that decision, then, is satisfactory.

Mr. DAVIDSON. Mr. Grigsby, I'd like to have your written opinion on that really, because that is something that should be for the future.

Mr. GRIGSBY. Very well. That is all right now, isn't it?

The CHAIRMAN. We've got one more. In this case the oath is properly taken, but there is no certificate on the election register, but the certificate of the judges of election to the election returns is properly made out.

Mr. GRIGSBY. Have you any where that certificate is omitted that is signed there?

The CHAIRMAN. Well, the only think is that I have a wire from the clerk of the court at Valdez. He says, in answer to the wire which I sent all the clerks of the courts:

In compliance with paragraph 2 of section 402, page 268, Compiled Laws, I mailed you on November 22, certified copies of duplicate certificates of election from 30 precincts. On December 9, from 10 precincts. On January 17, from 11 precincts and on January 18 reported no returns from 4 precincts.

LANG, Clerk.

LOUDEN (REOPENED).

The CHAIRMAN. At Louden official ballots were used and sent in. The registration book is another form again, you see. The registration book shows nine voters, properly signed by the judges of election; in the election register and tally book the judges of election have signed the oath of office to be taken by the judges of election, but it does not show that it has been executed, although this is merely a duplicate. This (indicating) is the duplicate election register and tally book; does not seem to be the original. Here is the registration book. In the election register the names were not put down, although we find them in the original handwriting on the registration book. The tally is correctly made—probably correctly made; the certificate of the judges of election is signed.

(Canvass deferred pending receipt of opinion from attorney general.)

M'DOUGAL.

Mr. DAVIDSON. Certificate of election register not filled out.

The CHAIRMAN. Well, that's like the other one.

PALMER.

The CHAIRMAN. That was where the judges were not sworn.

Mr. GRIGSBY. Just one of the judges swore before they started to perform their duties. Is that all?

The CHAIRMAN. Yes; I think so.

Mr. GRIGSBY. There isn't any trouble except with the oaths of election officers, but if you require a further opinion than I have already given, it will be that it doesn't make any difference.

The CHAIRMAN. Now, pending your written opinion on the various questions, which we have put up to you, how do you think the board should proceed? Should we take the returns as sent to us by the judges of election and make a note of any discrepancies that we may find or description of rejected ballots and then to adjust the canvass?

Mr. GRIGSBY. Well, I suppose it would be all right to go ahead with the tally, with the understanding that your determination isn't final until you pass upon the legal questions, where there are any. If you stop the tally it will delay the canvass to that extent. Two years ago the board adopted the rule that the canvass wasn't final until it was adopted after its completion. It was tentative only.

The CHAIRMAN. Well, I think that has been the assumption we've been working under.

Mr. DAVIDSON. That is what I understand.

The CHAIRMAN. Well, in that case we can continue the tally.

I have here some telegrams. I wired the clerk of the court for the fourth division regarding missing ballots from Wiseman, and he replies as follows:

"Ballots Wiseman voting precinct were forwarded you by registered letter No. 2563, dated November 26, together with order and notice of election and order appointing judges.

"CLARK, Clerk."

Here is another one from Clark:

"FAIRBANKS, February 10. 1919.

"RIGGS.

Governor, Juneau:

"Certified copies duplicate certificates of judges of election have been mailed you as same have been received, the first being forwarded November 30 last January 28, which includes all returns received this division.

"CLARK, Clerk."

Here's one from McGann:

"NOME, February 10. 1919.

"RIGGS,

Governor, Juneau:

"Quarantine prevents election returns of Bethel, Marshall, Willow, Kinia"—

I never heard of that precinct before. [Spells it.]

Mr. GARFIELD. Its Kiana.

The CHAIRMAN. Yes; I guess it must be. [Continues:]

"precincts reaching this office. Correct copy of results from other precincts mailed and held in post office because of quarantine regulations. First mail since election leaves Nome February 12.

"MCGANN."

RUBY.

Mr. DAVIDSON. Duplicate election register and tally book properly certified. (Ballots counted and returns checked and tallied.)

FORT GIBBON.

Mr. DAVIDSON. Election register and tally book properly certified.

The CHAIRMAN. Here are two ballots, evidently been counted.

Mr. GARFIELD. Thirty-nine ballots cast for the head of the ticket.

The CHAIRMAN. Thirty-nine. Well, then, these evidently have not been counted. That's one that votes for Sulzer and Wickersham. Here is one that has voted for both Hess and Pratt, so that has evidently not been counted for the same reason. Here is one that has been rejected, I imagine, on account of the cross being on the right-hand side. Following our precedent, we will count this ballot for Wickersham, making a note in the record "pending decision of Attorney General."

Mr. DAVIDSON (glancing over ballot). He didn't vote for anybody.

The CHAIRMAN. Didn't vote for anybody else except Wickersham. (Ballots counted and returns checked and tallied.)

RAMPART.

Mr. DAVIDSON. Election register and tally book properly certified.

The CHAIRMAN. Here is one ballot that was included in the unused ballots. One stub is torn off and it's marked for Connolly, but it was evidently not deposited in the ballot box.

Mr. GARFIELD. Any statement on the back?

The CHAIRMAN. No statement on the back.

HOT SPRINGS.

Mr. DAVIDSON. Election register and tally book, properly certified.

The CHAIRMAN. Here is one that is marked on the back "We consider this ballot defective, therefore illegal." It has for Delegate a cross before the name of Sulzer and Wickersham, but following our precedent, I think we ought to count the other votes where they are proper.

(Ballots counted and returns checked and tallied.)

CIRCLE.

Mr. DAVIDSON. Election book, properly certified.

(Ballots counted and returns checked and tallied.)

## EUREKA.

Mr. DAVIDSON. One election register and tally book properly certified.  
(Ballots counted and returns checked and tallied.)

## GOLDSTREAM.

Mr. DAVIDSON. One election register and tally book properly certified.  
(Ballots counted and returns checked and tallied.)

## TOFTY.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here's a ballot rejected "as voter put name on ballot," signed by the judges of election. It is marked for Sulzer, Hess, Nordale, and Pennington. (To Mr. Garfield). See if there's a Frank Allen in the list of voters.

Mr. GARFIELD. Frank Allen? Yes. That isn't Allen.

The CHAIRMAN. Well, it looks like Alben.

(Ballots counted and returns checked and tallied.)

## LOWER CLEARY.

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Thirty-four votes.

Mr. DAVIDSON. Thirty-two registered.

The CHAIRMAN. Maybe the judges of election didn't register.

Mr. GARFIELD. One of the judges of election hasn't registered.

The CHAIRMAN. Well, there are 34 votes cast for the head of the ticket and there's 34 ballots here. Is that the duplicate or original?

Mr. GARFIELD. Duplicate.

The CHAIRMAN. Is it certified?

Mr. GARFIELD. Yes.

The CHAIRMAN. I think we better——

Mr. GARFIELD. Down here they got "The total number of persons voted was 34." Oh, I think it's all right to let it go—just an informal mistake, technical error.

Mr. DAVIDSON. Oh, I think that it should be counted.

The CHAIRMAN. Well, the certificate of the clerk will show that.

Mr. GARFIELD. I move you to accept the returns as counted.

Mr. DAVIDSON. I second the motion.

The CHAIRMAN. All right. Evidently a mistake in copying. Original one is probably with clerk of court.

Mr. DAVIDSON. Certificate of selection of judges of election when original appointees fail to appear and qualify.

(Ballots counted and returns checked and tallied.)

## CLEARY.

Mr. DAVIDSON. Duplicate election register and tally book properly certified.  
(Ballots counted and returns checked and tallied.)

## GILMORE.

Mr. DAVIDSON. Certificate of election register not filled out. The other certificate, the oath of office to be taken by the judges of election are properly filled out, and the certificate of the judges of election to returns properly certified.

The CHAIRMAN. What's left out, the certificate of the election register?

Mr. DAVIDSON. Yes.

The CHAIRMAN. Well, we'll put that aside with the other.

(Canvass deferred, pending receipt of opinion from Attorney General.)

## NULATO.

Mr. DAVIDSON. One election register and tally book, properly filled out and certified.

The CHAIRMAN. Here is one that has some of those same blots that has evidently been counted in the returns.

(Ballots counted and returns checked and tallied.)

LITTLE ELDORADO.

Mr. DAVIDSON. Tally book, first oath, oath of judges has been signed but not sworn to. The others oaths are O. K.

The CHAIRMAN. Shall we put this aside with the others?

Mr. DAVIDSON. Might as well.

The CHAIRMAN. Everything else is proper?

Mr. DAVIDSON. Yes.

POWER PLANT.

Mr. DAVIDSON. One registration book. Oath of judges missing in duplicate election register and tally book.

(Canvass deferred pending receipt of opinion from the Attorney General.)

M'GRATH.

Mr. DAVIDSON. One duplicate election register and tally book, properly filled in and certified.

The CHAIRMAN. Here is a ballot that has been rejected, which has the name scratched off as in the previous ballots. We'll have to put this one away.

(Canvass deferred pending receipt of opinion from Attorney General.)

BETTLES.

Mr. DAVIDSON (after examining books). It's all right, but it isn't tallied.

The CHAIRMAN (reading from note on ballot). "This ballot not properly marked and has not been counted, Judges of Election"—marked on the right-hand side. Ballot marked on the other side for Wickersham, Pratt, Callahan, and Ross.

We might as well lay this aside.

Mr. DAVIDSON. Well, we have been counting those, but we can take another one and lay this aside for the present.

(Ballots and returns laid aside for consideration after receipt of opinion of Attorney General.)

GEORGETOWN.

Mr. DAVIDSON. One duplicate election register and tally book, properly certified.

(Ballots counted and returns checked and tallied.)

(Adjournment taken until 2 p. m.)

AFTERNOON SESSION.

The board met at 2 p. m., pursuant to adjournment.

GRAEHL.

The CHAIRMAN. Certificate of register of voters not signed.

ESTER.

Mr. DAVIDSON. One election register and tally book, properly certified. He hasn't got a tally.

The CHAIRMAN. I suppose we'll have to tally it then, don't you suppose?

Mr. GARFIELD. They're all right except Pennington—two mistakes.

Mr. RUSTGARD. How many registered?

The CHAIRMAN. Twenty-nine.

Mr. GARFIELD. Twenty-nine voted the head of the ticket.

DOVE CITY.

Mr. DAVIDSON. One election register and tally book, properly certified; certificate of selection of judges of election when original appointees fail to appear and qualify, appointing Mrs. Allie Stevens, properly signed.

(Ballots counted and returns checked and tallied.)



## FAIRBANKS.

Mr. DAVIDSON. Two challenge oaths—A. D. Wiler, Herman B. Stenbuck; one certificate of selection of judges of election when original parties fail to appear and qualify, appointing George Moody.

The CHAIRMAN. Before we start here, we might as well make a note of these other things here. Here are four ballots marked "mutilated ballots," thrown out, and one ballot with a hole in it, evidently made in making a cross opposite the name of Sulzer.

Mr. DAVIDSON. Let's see it a second, Governor. Don't you think that these are mutilated ballots when they give them extra ballots?

The CHAIRMAN. Where they give them extra ballots, they still have the stubs on. [Examining ballots]. A ballot with the word—with no mark against the name of the candidate, but with the word "Democrat" crossed out opposite the name of Sulzer, Hess, Dunn, Kilgore, Nordale, and Pennington; a blank ballot; a ballot with a line drawn through the name of Sulzer, Pratt, Callahan, and Colbert, Collins and Ross; ballot marked "vote for representatives disregarded; other votes included in the general count"; ballot marked "Vote for representatives disregarded; either votes included in general count; there are five representatives voted for on one and six on the other. [Continues]: Ballot for senator disregarded; other votes included in the general count"; two marks against the senators, although the name of Pratt seems to have been intended to be erased; ballot marked "vote for senator disregarded; other votes included in the general count;" it has two candidates for senator voted for. Ballot marked "vote for delegate disregarded; other votes included in the general count." It has two votes—it has two delegates voted for.

In the mutilated ballots thrown out, the intent seems to have been on one to vote for Sulzer, but he made a hole in the ballot; the intent on another seems to be to vote for Sulzer, Hess, Dunn, Kilgore, and Pennington, although improperly marked by scratching out the word "Democracy"; one total blank; the intent seems to have been, in this one, to vote for Sulzer, Pratt, Callahan, Collins, and Ross, although it is improperly marked.

Mr. DAVIDSON. Well, what are we going to do with these?

Mr. CHAIRMAN. I think the judges of election probably did right about them. Scratching out the word "Democrat" isn't casting a vote. It is not exactly a line through the name; just a line at the end of the name.

I think the decision on the other ballots will probably govern these. I believe the intent was to vote as marked, but it is not conclusive.

Mr. DAVIDSON. Well, these are not conclusive, but I believe that ballot there [pointing] should be counted.

The CHAIRMAN. Shall we lay this aside, pending the decision; because on the decision will hinge the intent of the voter.

Mr. GARFIELD. Yes; that is what we want to arrive at, in canvassing those votes. What did the voter intend? It looks as though he intended there to vote for Sulzer. He used his pencil on a rough surface and tore it with a hard pencil. There is no other mark on the ballot. Just off-hand you'd say that was his intention.

Mr. DAVIDSON. This one, what would you say about his intention there—to cut off all the Democrats?

Mr. GARFIELD. No; his intention was to vote for the Democrats, I'd say, from the fact that he has crossed out the other names; otherwise, he intended to vote for the ones he marked. It's pretty hard, though, to contemplate the operation of a person's mind who prepares his ballot in that way.

The CHAIRMAN. I suggest that we lay this temporarily aside until the Attorney General has given his opinion on the others.

I think we shouldn't give out the result when we lay them out temporarily.

Mr. MARSHALL. I don't think that's proper.

The CHAIRMAN. Yes; I don't think we ought to give out any information.

## EAGLE.

Mr. DAVIDSON. One election register and tally book, properly certified.  
(Ballots counted and returns checked and tallied.)

## MOOSE CREEK.

Mr. DAVIDSON. Election register and tally book properly certified; certificate of selection of judges of election when original appointees fail to appear and qualify, appointing Jacob Wagner and Charles Westphal, properly signed.  
(Ballots counted and returns checked and tallied.)

## CHICKEN.

Mr. DAVIDSON. One of the challenge oaths is signed by G. G. Esterbrook, properly signed by the judge of election; one election register and tally book properly signed.

The CHAIRMAN. Here is a ballot that is marked against the names of Sulzer and Wickersham. The mark against Sulzer is evidently intended to be blotted.

Mr. DAVIDSON. Yes; I think so.

Mr. GARFIELD (examining ballot). Yes; it's perfectly clear; yes.  
(Ballots counted and returns checked and tallied.)

## FRANKLIN.

Mr. DAVIDSON. Election register and tally book properly certified.  
(Ballots counted and returns checked and tallied.)

## ANIAK.

Mr. DAVIDSON. One duplicate election register and tally book properly certified and one certificate of judges of election of facts preventing the use of official ballots. What's the matter with this?

The CHAIRMAN. Oh, that's another case where everybody signed.  
(Ballots counted and returns checked and tallied.)

## TACOTNA.

Mr. DAVIDSON. Election register and tally book properly certified.

## WOODCHOPPER.

The CHAIRMAN. That one wasn't voted. The stub was torn off. Says the voter marked ballot.

Mr. DAVIDSON. Election register and tally book, properly certified.  
(Ballots counted and returns checked and tallied.)

The CHAIRMAN. At the suggestion of Mr. Rustgard, insert in there, in the certificate of election register, that the number of voters is not certified to, although the rest of the certificate is made out.

## NENANA.

Mr. DAVIDSON. One challenge oath sworn in by Joseph Alane.

The CHAIRMAN. Here's a bunch of ballots marked "Ballots not counted by being marred," signed by the judges of election, and another ballot, "This ballot marred by voter; new ballot issued."

Mr. DAVIDSON. One election register and tally book properly certified.

The CHAIRMAN. Here's a bunch of ballots—

Mr. DAVIDSON (interrupting). Beg pardon; have they counted them?

The CHAIRMAN. No; none of them are counted. Whole ballot thrown out because there are two voted for Delegate. Ballot marked in the column designation for party by which nominated. That is very similar to the one in the Fairbanks district; ballot marked on the right side of the name, as we have been counting them; another ditto; ballot marked "Erased," rubbed out with an eraser, evidently, and marked in another place; ballot marked in the party designation column; ballot thrown out because voted for five representatives; ballot with marked cross on the right-hand side; here is one crossed on the right-hand side. Well, we'll put that away.

(Canvass of votes from Nenana precinct deferred pending receipt of opinion from attorney general.)

## TANANA.

The CHAIRMAN. There's one that wasn't allowed to be voted; it wasn't put in the ballot box—probably marred his ballot; two marred ballots unmarked.

Mr. DAVIDSON. Election register and tally book properly certified.

The CHAIRMAN. All seem to be in good shape except this ballot here, which is marked for Connolly and Wickersham and is among those that have been counted with no mark on either side. I suggest that we run through the head of the ticket.

Mr. DAVIDSON. There's 65 registered.

The CHAIRMAN. Well, then, it evidently hasn't been counted.

Mr. MARSHALL. No.

Mr. RUSTGARD. I suggest running through the head of the ticket. How did you say the vote stood?

The CHAIRMAN. Sixty-five ballots, and 64 voted for the head of the ticket. Neither one of the head of the ticket is marked.

Mr. MARSHALL. One is marked for two candidates.

The CHAIRMAN (to Mr. Rustgard). If we run through the head of the ticket your side loses. You want to run through the head of the ticket?

Mr. RUSTGARD. If there is no objection on the part of the board.

(Head of the ticket checked, resulting in no change.)

## FLAT.

Mr. DAVIDSON. One certificate of selection of judges of election when original appointees fail to appear and qualify, appointing C. R. Peck. Election register and tally book properly certified.

Mr. MARSHALL. Apparently one blank.

The CHAIRMAN. One blank.

Mr. MARSHALL. But as 97 voted for the head of the ticket, it evidently has been counted for somebody.

The CHAIRMAN. So it appears. We better count them. (Recount made.) Judge Marshall's right; there's one blank.

Mr. DAVIDSON. Well, hang that up, then. How are the rest of them? All voted on this side. We're liable not to get that question settled for a long time; it may be five or six weeks, you know.

The CHAIRMAN. We can say one ballot counted, marked, outside of all lines to the extreme right; one cross for Sulzer, Hess, for Callahan inside of line underneath the column party designation and Kilgore.

Mr. DAVIDSON. I think, so far as these votes go, it don't matter the position of that mark, so long as it is opposite the name. Do you?

The CHAIRMAN. Well, it's all in the same category.

Mr. DAVIDSON. I think we might as well go on and count these and then the thing can be taken up afterwards. It strikes me that that ballot is perfectly good.

The CHAIRMAN. Well, if under our ruling this ballot is good, why, then there are probably those other ballots that are good, too.

Mr. GARFIELD. Well, that makes it agree with the 97?

The CHAIRMAN. That makes it agree; yes.

(Ballots counted and returned, checked and tallied.)

## FIRST DIVISION.

Mr. MARSHALL. Mr. Chairman, we want to look at the orders, or the various orders, if there's more than one, issued by the commissioner and recorder in the Chitina recording district. I don't know whether you want us to look at that in the presence of the board or—

The CHAIRMAN. We looked at that the other day. You want to look at it again?

Mr. MARSHALL. Yes.

## PETERSBURG.

Mr. DAVIDSON. Two duplicate election registers and tally book; certificate of selection of judges of election when original appointees fail to appear and qualify—Louis Martin and one of the same appointed Antone Anderson and John Bruce, I guess it is. Both the duplicate election register and tally book are properly certified, and one registration book properly certified.

(Adjournment taken until 10 a. m., February 12, 1919.)

WASHINGTON, *February 12, 1919.*

The board met at 10 a. m., pursuant to adjournment.

The CHAIRMAN. I have the following telegram from Fairbanks:

Lower Clearly precinct election register and registration book show 34 persons registered; certificate shows 34 votes. Registration book shows votes number 31 to 34, inclusive, follows: Axel Raymond, R. Weiss, Fred W. Schaap, P. E. Dunlapp.

CLARK, *Clerk.*

## DOUGLAS NO. 1.

Mr. DAVIDSON. One registration book, properly certified; one duplicate election register and tally book, with oaths of judges and clerks complete; acceptance of judges.

Mr. GARFIELD. And properly certified by judges as to registration and certificate of election—results of election.

Mr. DAVIDSON. This is an acceptance of appointment by members of election board in municipalities; signed by Euline B. Silkwood, Oliver M. Olson, Alex Kronquist, Hugh Tracy, and David H. Christoe.

(Ballots counted and returns checked and tallied.)

## PORT WALTER.

Mr. DAVIDSON. One duplicate election register and tally book, properly certified, and one registration book, properly certified.

(Ballots counted and returns checked and tallied.)

## HAINES.

Mr. DAVIDSON. One registration book, properly certified; one duplicate election register and tally book; oath of officers correct; registration certificate correct, and certificate of election properly signed by judges.

Here is one challenge oath signed by J. H. Chisel; here is the certificate of selection of judges of election when original appointees fail to appear and qualify, appointing A. F. McLean.

The CHAIRMAN. Here is a ballot that is voted for every one of the representatives and nobody else. Two in here crossed on the right side. This one is marked "marred ballot"; never been voted; they probably got a new ballot.

(Ballots counted and returns checked and tallied.)

## WRANGELL.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. One duplicate election register and tally book, properly certified; 164 ballots cast and 164 blanks.

The CHAIRMAN. One hundred and sixty-four blanks?

Mr. GARFIELD (reading). "And the number of ballots totally blank cast is 164, and the number of ballots cast is 164." [Laughter.]

(Recount made.)

Mr. GARFIELD. Makes an extra one for Wickersham.

(Owing to a miscount, Wickersham gained one.)

## HYDER.

Mr. GARFIELD. Duplicate register and tally sheet, all certified to. I put the motion that they be counted.

Mr. DAVIDSON. I second it.

Mr. GARFIELD. Waiving any informalities.

The CHAIRMAN. Was the precinct properly established?

Mr. DAVIDSON. That's a thing we've got to look up.

The CHAIRMAN (after looking through orders establishing precincts). I find no notice of the establishment of this precinct.

Mr. DAVIDSON. I suggest that we wire Ketchikan.

The CHAIRMAN (interposing). Mahoney to find out. Shall we tally this?

Mr. GARFIELD. Yes; I think so.

(Telegram sent to Mahoney accordingly.)

Mr. DAVIDSON. I'd say tally it and then we can strike it off.

The CHAIRMAN. Well, now, Heckman is a holdover. We can't count any vote for him.

Mr. GARFIELD. Well, we can put him down. It won't do any harm; it comes in the scattering list.

Mr. DAVIDSON. One registration book for general election is a small book and not the regular printed registration book, such as used for general elections, but is properly certified by the judges and there is one certificate of judges, certifying that there were no ballots received.

Mr. GARFIELD. Tally sheet is also informal.

The CHAIRMAN. The ballots are not official ballots, but written in on paper, showing candidates "for Delegate to Congress, vote for one;" two lines marked "Sulzer, Charles A., and Wickersham, James;" then a blank, then a line for territorial Senator, and two blank lines; then four blank lines headed "for territorial representative, vote for four;" stubs on the heads of the sheets and torn off; a blank ballot marked "No. 11," with stub still attached, is transmitted with the record.

Sulzer 5, Wickersham 5.

(Ballots counted, returns checked and tallied.)

#### CORDOVA.

Mr. DAVIDSON. One registration book properly certified, and one certificate that there was only one judge that appeared and that the vacancies were filled by a vote taken at the time, appointing Bartley Howard, Frank Foster as judges, and George Howard, Pat O'Toole as clerks, and that was properly sworn to.

Mr. GARFIELD. Lot of bum ballots; 415 voted and only 404 for the head of the ticket. There's two different colors of ballots; different shades of paper.

The CHAIRMAN. Ran out of one kind of paper.

Mr. MARSHALL. I expect that they ran short of one kind of paper.

The CHAIRMAN (after counting ballots). Four hundred and one perfectly good ones. There are five rejected, apparently, but not as to the head of the ticket. I made a mistake here. Five blank as to the head of the ticket (counts again) 6 blanks as to the head of the ticket; one totally blank; five rejected in part but all right as to the head of the ticket and two rejected as to the head of the ticket. Nine votes not for the head of the ticket and a total of 415 votes.

Mr. GARFIELD. Four hundred and fifteen registered.

The CHAIRMAN. That ought to make 406 for the head of the ticket.

Mr. GARFIELD. Four hundred and four counted; 404 tallied.

The CHAIRMAN. Well, we better look through these and see if we have overlooked any that should have been thrown out. We have got 406 votes for the head of the ticket, but only 404 appear on the tally, so there's two votes for the head of the ticket not accounted for.

There's 401 good votes.

Mr. DAVIDSON. And five here.

The CHAIRMAN. That makes 406.

[Recount made to see if there were any blanks as to the head of the ticket, resulting in agreement with records of election board.]

Mr. GARFIELD. Duplicate election register and tally book, oaths of judges correct, also certificate of registration, and certificate of election

#### VALDEZ.

Mr. GARFIELD. One duplicate register and tally book, oaths of judges correct, also certificate to election register, and certificate of election properly signed.

The CHAIRMAN. Here is one that has been scratched out—scratched out Connolly; so that makes 21; 6 blanks for the head of the ticket—255.

Mr. GARFIELD. That makes it all right; total vote 261.

The CHAIRMAN. How does that jibe it with the head of the ticket? One ballot evidently not counted for the head of the ticket marked for Connolly and Sulzer. Attempt made to rub out the cross opposite Connolly's name. That is quite relevant to the tickets we counted for Wickersham.

(Adjournment taken until 2 p. m. Later changed to 10 a. m., February 13, 1919.)



THURSDAY, FEBRUARY 13, 1919.

The board met at 10 a. m., pursuant to adjournment.

ILIAMNA.

Mr. GARFIELD. Election register and tally book, judges oath, properly executed, certificate of registration and certificate of election properly signed.  
(Ballots counted and returns checked and tallied.)

NINILCHIC.

Mr. DAVIDSON. One election register and tally book, with all certificates properly executed.  
(Ballots counted and returns checked and tallied.)

KENAI.

Mr. DAVIDSON. One registration and tally book, properly certified.

The CHAIRMAN. Here is one that is marked against the blank.

Mr. GARFIELD. Is that counted?

The CHAIRMAN. Yes; that's counted.

Mr. MARSHALL. Doesn't that also show that there has been an attempt to mark it for Wickersham?

The CHAIRMAN. Well, then, that would be two marks.

Mr. MARSHALL. But one doesn't count, according to the holding of the board.

The CHAIRMAN. One doesn't count, but two marks that are marked there would throw it out.

Mr. DAVIDSON. Wouldn't throw it out unless it was opposite the name.

The CHAIRMAN. He had evidently started to mark it for Wickersham and changed his mind and marked it for a blank.

Mr. MARSHALL. The judges of election counted that though?

The CHAIRMAN. I don't know whether they did or not until we check up. I was just drawing the attention of the board to that.

(Recount made.)

The CHAIRMAN. It has not been counted.

Mr. DAVIDSON. This one—of course, I wouldn't count this, but suppose this would be marked up there; then I would say that Wickersham or anybody else that had the cross opposite his name should be counted.

The CHAIRMAN. Well, I shouldn't. Unless that was erased—I should say it couldn't be counted. But there are two marks against it, under column head of the ticket. I don't see how you could possibly count it.

Mr. GARFIELD. It would be two votes for official designation, but not two votes for the individual candidates?

The CHAIRMAN. Yes.

Mr. DAVIDSON. That fellow there started in to vote for Wickersham and then dropped down there. Had no right to vote at all, because an idiot started to vote and then changes his mind and dropped down there.

(Ballots counted and returns checked and tallied.)

AFOGNAK.

The CHAIRMAN. Marred ballot; shall we look at it?

Mr. DAVIDSON. Yes. One registration book, properly signed; certificate properly signed.

Mr. GARFIELD. One election register and tally book, with proper oaths of election officers, certificate of registration and certificate of election properly signed.

(Marred ballot had not been polled.)

SANAK.

The CHAIRMAN (reading). "We certify that the within ballot was marked by us for elector incapable, under the law, of making his own ballot and as directed by him." Unofficial ballots.

Mr. GARFIELD. One election register and tally book, with oaths of judges; oaths of judges properly signed; certificate of register and election returns properly signed by the judges.

Mr. DAVIDSON. Here is a certificate of the judges of election of facts preventing the use of official ballots, certifying that there was no official ballots received and that they allowed the use of other ballots; signed by Gus Holmberg, W. J. Moran, and Mrs. A. C. Goss.

The CHAIRMAN. Five ballots certified to by judges of election that elector was incapable, under the law, of making his own ballot, as directed by him.

(Ballots counted and returns checked and tallied.)

#### UNALASKA.

Mr. DAVIDSON. One certificate of judges of election of facts preventing the use of official ballots, signed by the three judges, certifying that there was no ballots received and that they used printed ballots made by themselves.

The CHAIRMAN. The ballots were made according to the parties: Socialist Party, Republican Party, Democratic Party.

(Ballots counted and returns checked and tallied.)

#### UNGA.

Mr. GARFIELD. One election register and tally book, oath of judges properly executed; the certificate of registration and election returns properly signed.

Frame's name is on the ticket, but it isn't printed in the tally book.

Mr. DAVIDSON. You see, this is the same kind of tally book as that other one, and these fellows made up the tally different.

(Ballots counted and returns checked and tallied.)

#### CHISANA.

Mr. GARFIELD. One election register and tally book, oath of judge properly executed; certificate of registration and election returns properly signed.

(Ballots counted and returns checked and tallied.)

#### CHIGNIK.

The CHAIRMAN. Another place with unofficial ballots.

Mr. RUSTGARD. In that case the certificate of the judges to the effect that no official ballots were received was not received with the returns?

(The chairman reads certificate of the election board of facts preventing the use of official ballots.)

Mr. RUSTGARD. That certificate came here from the clerk of the court? It wasn't inclosed in the same envelope with the ballots or registration book?

The CHAIRMAN. No.

Mr. DAVIDSON. Here is the same proposition—that they received the tally books, but not the ballots.

Mr. GARFIELD. Now, these ballots are the same kind as they had before with the candidates names left off.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. One election register and tally book; oath of judges properly executed; certificate of registration and election returns properly signed by the judges.

(Ballots counted and returns checked and tallied.)

#### OUZINKIE.

The CHAIRMAN. Here is one (exhibiting ballot) says: "Voted on Republican ticket, folded too quickly and blotted"; but if the number checks up, I think that ought to be counted. Six tickets certified by the judges of election that the elector was incapable, under the law, of marking his own ballot as directed by him, of which one is for Connolly, two for Sulzer and three for Wickersham. Now, are there 20 for the head of the ticket?

Mr. GARFIELD. Yes.

The CHAIRMAN. Well, then, that has been counted; that was an explanation of the blots. I wonder what they did with the representative business. I imagine we'll have to tally the representatives.

(Votes for representatives canvassed.)

Mr. GARFIELD. This cuts out one for Frame.

Election register and tally book, with oath of judges properly executed; certificate of register and election returns properly signed by the judges.

#### KODIAK.

Mr. DAVIDSON. There is one certificate missing here.

The CHAIRMAN. We better put that away then. Well, the original registration book and certificate's here.

Mr. DAVIDSON. Yes; but we had one just the same as that and put it away the other day.

The CHAIRMAN. Didn't we count it?

Mr. DAVIDSON. I think we should have, but we didn't.

The CHAIRMAN. I thought we counted it.

Mr. DAVIDSON. No.

The CHAIRMAN. Original registration book is submitted with the returns and is properly certified by the judges of election, but that duplicate register is not.

(Canvass of returns from this precinct deferred pending receipt of opinion from the attorney general.)

#### FOURTH DIVISION.

#### THIRTY-FIVE MILE.

(Envelope containing election returns in bad condition.)

Mr. GARFIELD. One duplicate election register and tally book, oaths of judges properly executed, certificate of registration and election returns properly signed by the judges.

(Ballots counted and returns checked and tallied.)

#### POORMAN

Mr. GARFIELD. One duplicate election register and tally book, oaths of judges properly executed, registration certificate, and election returns properly certified by the judges.

(Ballots counted and returns checked and tallied.)

#### LONG.

Mr. GARFIELD. One election register and tally book, oaths of judges properly executed, certificate of registration, and election returns signed by the judges.

(Ballots counted and returns checked and tallied.)

#### GREENSTONE.

Mr. GARFIELD. Duplicate election register and tally book, with oaths of judges properly executed, certificate of registration, and election returns signed by the judges.

(Ballots counted and returns checked and tallied.)

#### SPRUCE.

Mr. GARFIELD. Duplicate election register and tally book, oath of judges correct, certificate of register not executed, certificate of election returns properly signed by the judges.

(Canvass of votes from this precinct deferred pending receipt of opinion of the attorney general.)

#### FORT YUKON.

Mr. DAVIDSON. Certificate of selection of judges of election when original appointees fail to appear and qualify.

Mr. GARFIELD. One duplicate register and tally book, oath of judges properly executed, certificate of registration and election returns signed by the judges.

The CHAIRMAN. This states that Lynn Short and Edward Owens did not appear; so by process of elimination we can see what men must have been there.

(Ballots counted and returns checked and tallied.)

OPHIE.

The CHAIRMAN. Another bum certificate.

Mr. GARFIELD. Duplicate election register and tally book, oath of judges properly executed, certificate of election register not signed by the judges, certificate of election returns properly signed by the judges.

Mr. DAVIDSON. I wonder when Grigsby is going to give us an opinion. He's holding us back to beat the band.

The CHAIRMAN. He hasn't held us back yet.

(Adjournment taken until 2 p. m.)

AFTERNOON SESSION.

The board met at 2 p. m., pursuant to adjournment.

FORTUNA LEDGE (MARSHALL.)

Mr. DAVIDSON. Registration book; this has a certificate signed in proper shape, properly certified.

Mr. GARFIELD. Duplicate general election register and tally book; oaths of judges properly executed. Registration and election certificates signed by the judges.

Mr. DAVIDSON. There was one challenge oath, signed by Dora K. Bennett; also certified and sworn to before H. Ray Hunt, judge of election.

(Ballots counted and returns checked and tallied.)

WILLOW CREEK.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. One duplicate general register and tally book; oaths of judges properly executed; certificates of registration and election returns properly certified.

(Ballots counted and returns checked and tallied.)

BETHEL.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. No certificate of registration here.

Mr. DAVIDSON. How's the others?

Mr. GARFIELD. The others are all right.

Mr. DAVIDSON. There is no certificate of registration here.

The CHAIRMAN. Well, we'll lay this aside.

(Returns not canvassed pending receipt of opinion from attorney general.)

UNALAKLEET.

Mr. DAVIDSON. One certificate of selection of judges of election when original appointees fail to appear and qualify (Aaron Paneck) properly certified; one registration book properly certified.

Mr. GARFIELD. Duplicate general register and tally book, and oaths of judges properly executed; certificates of registration and election results properly signed by the judges.

(Ballots counted and returns checked and tallied.)

DISCOVERY.

Mr. GARFIELD. Duplicate election register and tally book, oath of judges properly executed and certificate of registration and election returns, properly signed by the judges.

The CHAIRMAN. How many have you got for the head of the ticket there?

Mr. GARFIELD. Twenty-eight voted.

The CHAIRMAN. Ought to be 29 votes; 30 ballots that I've got altogether; 30 ballots; does that check up?

Mr. GARFIELD. Thirty voted, yes; 28 for the head of the ticket. There ought to be two blanks there.

The CHAIRMAN. Here are two that have been thrown out.  
(Ballots counted and returns checked and tallied.)

IDITAROD.

Mr. GARFIELD. Duplicate election register and tally book, oath of judges properly executed; registration and certificate of election returns properly filled out.

The CHAIRMAN. How many votes cast altogether?

Mr. GARFIELD. Thirty-six for the head of the ticket.

The CHAIRMAN. Well, I draw the attention of the board to this one, where the squares have been just simply——

Mr. GARFIELD (interrupting). Kind of scratched, aren't they? Looks as though they have been crossed and then scratched.

The CHAIRMAN. Sheldon has been crossed and then scratched; the others seem to be just simply scratched in the square, without making of any form; just as though a person had taken their pencil——

Mr. GARFIELD. Is that cross there——

The CHAIRMAN. Looks as though it had been crossed and scratched. Wickersham.

Mr. GARFIELD. The judges counted that, did they?

The CHAIRMAN. The judges evidently counted that. There is a distinguishing mark; that is the only thing. It's an absolutely distinguishing mark.

(Ballot counted by board pending decision re distinguishing marks from the attorney general.)

BLUFF.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. Duplicate general election register and tally book, oaths of judges properly executed; certificate of registration and election results, signed, properly signed by the judges.

The CHAIRMAN. One vote is a blank for the head of the ticket.

(Mr. Cramer hands chairman telegram, which is read):

KETCHIKAN, ALASKA, *February 13, 1919.*

Gov. RIGGS, *Juneau:*

Hyder precinct No. 10 established by me September 3, 1918.

MAHONEY, *Commissioner.*

(Ballots counted and returns checked and tallied.)

CANDLE.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. One duplicate election register and tally book, with oaths of judges properly executed; certificate of registration and results of election properly signed by the judges.

The CHAIRMAN. There is one here that might be doubtful—marked in the column for party designation. The word "Republican" is crossed after the name of Wickersham.

Mr. DAVIDSON. That would be the same as though it was marked here or here.

The CHAIRMAN. That is one of the things we have put up, but we have been counting them. For safety's sake, I think we better check them.

(Retally made resulting in one more vote for Wickersham.)

KOTZEBUE.

Mr. GARFIELD. Registration book certified by the judges; duplicate election register and tally book, properly certified and oaths of judges properly executed; certificates of registration register and results of election properly signed by the judges. What's this:

"One ballot is marked for five representatives. Did not count for representatives; the rest of the ballot is counted."

(Ballots counted and returns checked and tallied.)



## DEERING.

Mr. DAVIDSON. One registration book, properly certified—16 votes.

Mr. GARFIELD. Duplicate general election register and tally book, oaths of judges properly executed; certificate of register election results properly signed by the judges. [Reads:]

"One of the 16 ballots was thrown out and not counted, being improperly marked."

The CHAIRMAN. I think it ought to be counted for Frawley and Boggun. It's only improperly marked for Delegate.

Mr. DAVIDSON. I think so, too.

(One more vote given to Frawley and Boggun each.)

## UTICA.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. One duplicate general election register and tally book, with oaths of judges, properly executed; registration certificate and certificate of results signed by the judges.

(Ballots counted and returns checked and tallied.)

## COUNCIL.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. Duplicate election register and tally book, with oaths of judges, properly executed; registration certificate and certificate of general results signed by the judges.

## CHINIK.

Mr. DAVIDSON. One certificate of selection of judges of election when original appointees fail to appear and qualify, appointing Joseph Fagerstrom.

The CHAIRMAN. Original registration book signed, but the duplicate——

Mr. GARFIELD (interrupting). Duplicate registration and tally book, with oaths of judges, properly executed; registration certificate not signed; certificate of results of election signed by the judges.

The CHAIRMAN. I don't see why, when the registration book is signed, why we don't count them, because where we have that evidence——

Mr. GARFIELD. The only thing is we passed it up.

The CHAIRMAN. Did we passed it up?

Mr. GARFIELD. Oh, yes.

The CHAIRMAN. That was only when we had the one book.

Mr. GARFIELD. Oh, no; we passed it up to him (the attorney general) on the one proposition, to go over that at one time.

(Canvass deferred pending receipt of opinion from the attorney general.)

## ST. MICHAEL.

Mr. DAVIDSON. One registration book, properly certified. No; it isn't; yes; it is, too.

Mr. GARFIELD. Duplicate election register and tally book, oaths of judges executed, certificate of registration and results of election signed by the judges.

The CHAIRMAN. Here is one ballot that has been not voted for same reason as the other; but there are 54 other ballots, so they must have given him a new one for it. Three ballots that were signed by the judges of election, the voter being incapable of making it himself; all three for Sulzer.

(Ballots counted and returns checked and tallied.)

## HAYCOCK.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. Duplicate register and tally book; oaths of judges properly executed; registration and certificate of register and results of election signed by the judges.

(Ballots counted and returns checked and tallied.)

## KANTISHNA.

Mr. DAVIDSON. One certificate of selection of judges of election when original appointees fail to appear and qualify.

Mr. GARFIELD. Duplicate election register and tally book; oaths of judges properly executed; certificates of registration and election signed by the judges.

(Adjournment taken until 10 p. m., Feb. 14, 1919.)

FRIDAY, FEBRUARY 14, 1919.

The board met at 10 a. m., pursuant to adjournment.

The CHAIRMAN. Here is a communication, signed by John B. Marshall and John Rustgard, dated at Juneau, Alaska, February 14, 1919:

*To the Territorial Canvassing Board, Juneau, Alaska.*

GENTLEMEN: Upon investigation we find that the House of Representatives of the United States has ruled, in conformity with many courts, that ballots which have been voted without detaching the numbered coupon, are void and should not be counted.

This ruling is based upon the obvious reason that unless such coupon numbers are detached before the ballot is put in the box, the election judges may readily ascertain how each elector voted. In fact, anyone may now take the register and from that determine who each elector voted for.

Under the circumstances we respectfully request, on behalf of Hon. James Wickersham, that the precincts in which the ballots voted still have the numbered coupons attached, be rejected and not allowed in the final count.

The records before the board will show that there are, in the first division, six precincts in which the ballots are void for the reason above stated, and in the third division there are two such precincts. The precincts referred to are the following:

In the first division: Hadley, Kake, Loring, Tenakee, Tokeen, and Windham. In the third division: Chisana and Ninilchik.

It also appears from the records before your board that in the Kuskulana voting precinct, in the third division, two separate polling places were established in one and the same precinct, thus affording opportunity for a resident of that precinct to vote at two different polling places. This seems to be clearly in violation, both of the letter and the spirit of the statute covering the subject, and we therefore respectfully request that Kuskulana No. 1 and Kuskulana No. 2 be eliminated from the final tally and the vote not considered.

Respectfully submitted.

JOHN RUSTGARD.

JOHN B. MARSHALL.

That's a matter I think we'll refer to the attorney general.

Mr. DAVIDSON. I suggest that he be given a copy.

Mr. MARSHALL. So far as the certificates of election are concerned, of course, in the event that the tally should eventually be made in the absence of returns, we would like, then, to examine the certificates.

Mr. GARFIELD. We're not going to canvass the votes on them at all.

Mr. MARSHALL. I don't know but what you may eventually want to canvass the returns from those certificates, the propriety of which I shall not question at this time.

The CHAIRMAN. I notice in both of your communications you state that you are representing Judge Wickersham. You have filed nothing to show that you are representing Judge Wickersham, and I shall be very much obliged to you to do it, for the simple reason that Judge Wickersham, in his testimony before the House, disclaimed that Mr. Rustgard was representing him here two years ago; in fact, claimed that he was only an acquaintance, and so, to avoid any possibility of any conflict, if you have anything to show that you are representing Judge Wickersham I would be very much obliged if you would submit it.

Mr. MARSHALL. I have two letters. While in both of them there are some other matters to some extent, there is one at least which I see no reason why it shouldn't be filed. That would be sufficient; would it not?

The CHAIRMAN. It depends on what the letter is, of course.

Mr. MARSHALL. Then, I'll say that any notice to us from the canvassing board of any subsequent meeting at which there will be votes tallied, will be entirely satisfactory to us.

(Record made of all precincts from which no returns were received, and precincts checked with certificates of election boards and orders of commissioners establishing them. Telegrams were sent to those commissioners from whom no order of establishment of precincts in their recording district had been received.)

(Adjournment taken, subject to call of chairman.)

WEDNESDAY, FEBRUARY 19, 1919.

The board met pursuant to adjournment at 10 a. m.

Judge WINN. I have here, if you please, Mr. Chairman and other members of the board, a protest to file, one with respect to the—I won't read it all—against counting the vote at Fairbanks for the reasons set forth in the protest; and also a protest against counting the vote cast in the Bethel precinct for the grounds set forth in the protest; and also a protest against counting the vote cast in the Unalakleet precinct. I will state to you that these were gotten up by Mr. Hellenthal's office, and I agreed with him, but we both slept late and didn't have a chance to go over them and correct them. If there is any little mistake to correct we'd like to have the privilege of doing so. They were run off late Saturday night and we were very late in getting up this morning. Also a protest against the board canvassing the vote cast at Seldovia; a protest against the board counting the precinct of Loudon; and also a protest against considering the vote cast in Iditarod. The ground is set forth. I don't care to read them. They are here for your consideration, if you desire to read them. It would take a lot of time to read them, and, so far as I am concerned, I have no argument to make on it. I don't know whether Mr. Hellenthal wants to make an argument or not. He said he'd be down soon.

The CHAIRMAN. Is it the opinion of the board that we should read all these communications?

Mr. DAVIDSON. Why, I'd just as soon have them read.

(The chairman reads:)

JUNEAU, ALASKA, February 17, 1919.

*To the Hon. Thomas R. Riggs, Charles E. Davidson, and Charles Garfield, sitting as a canvassing board to canvass the returns of the general election held within Alaska on the 5th day of November, 1918.*

GENTLEMEN: Charles A. Sulzer, candidate for Delegate to Congress from Alaska on the Democratic ticket at the election held in the Territory of Alaska on the 5th day of November, 1918, the vote cast at said election, which your honorable board is now engaged in canvassing, respectfully protest against your board considering or canvassing the vote cast at the precinct of Fairbanks on the following grounds:

First. That in the conducting of election held in the precinct of Fairbanks the judges of election, in violation of the statutes, permitted more than 50 voters who had not resided within said election precinct for 30 days previous to the date of election to vote; that a great number of said 50 voters did not reside in Fairbanks at all, but were temporarily present there only on the day of election.

Second. That the election held in said precinct is void for the reason that said election was not called for said precinct or the notice of said election was not given and the officers in said election were not appointed as provided by section 395 of the Compiled Laws of Alaska; that the common council of the said town of Fairbanks, which comprises said election precinct, did not appoint the officers of said election until one week before said election was held, and did not post the required notices of said election until one week before said election was held, and did not publish the required notice of said election in a newspaper of general circulation in said town and precinct until one week before said election was held.

Respectfully submitted.

J. A. HELLENTHAL,  
JNO. R. WINN,  
*Attorneys for Charles A. Sulzer.*

JUNEAU, ALASKA, February 17, 1918.

*To the Hon. Thomas R. Riggs, Charles E. Davidson, and Charles Garfield, sitting as a canvassing board to canvass the returns of the general election held within Alaska on the 5th day of November, 1918.*

GENTLEMEN: Charles A. Sulzer, candidate for Delegate to Congress from Alaska on the Democratic ticket at the election held in the Territory of Alaska on the 5th day of November, 1918, the vote cast at said election which your honorable board is now engaged in canvassing, respectfully protest against your board considering or canvassing the vote cast at the precinct of Bethel on the following grounds:

First. That the majority of the votes cast at said precinct and counted by the judges of election and included in the returns now before your honorable board were cast by unnaturalized alien enemies and by Alaska Indians, or descendants of the aboriginal race of inhabitants of Alaska, all of said Indians being unable to read or write the English language and not being citizens of the United States, none of said Indians having severed their tribal relations or adopted the customs of civilized society, and are largely under the authority and control of their tribe and are governed by a chief.

Second. That there was fraud committed in the matter of the holding of said election in this: That said Alaska Indians who were permitted to vote can not speak or read the English language, and the ballots returned to your board to be canvassed do not show any of the judges of election assisted these untutored Indians in the preparation of their ballots.

Respectfully submitted.

J. A. HELLENTHAL,  
JNO. R. WINN,

*Attorneys for Charles A. Sulzer.*

(Same date and heading.)

GENTLEMEN: Charles A. Sulzer, candidate for Delegate to Congress from Alaska on the Democratic ticket at the election held in the Territory of Alaska on the 5th day of November, 1918, the vote cast at said election which your honorable board is now engaged in canvassing, respectfully protest against your board considering or canvassing the vote cast at the precinct of Unalakleet, on the following grounds:

First. That in this precinct at the date of election there were not more than seven qualified voters in this precinct, and the election returns show that there were more votes cast at said election in this precinct.

Second. That all but seven of the votes so cast were cast by Eskimos or Alaska natives; that none of said Eskimos or Alaska natives are citizens of the United States or qualified voters at said election; that said Eskimos or Alaska natives can not read or write the English language, or any other language, and can not speak any language but the Eskimo or native language; that they have no conception of who they were voting for or the purposes of an election; that they live in tribal relations and under the direction and control of a chief; that they have not severed their tribal relations or adopted the customs of civilized society.

Third. That in view of the fact that all but seven of said voters were unable to read the names appearing upon the ballots. It is evident that gross election fraud was committed in the holding of said election in this precinct, as very few of any of the ballots returned show that any of the judges of election assisted said Eskimos or Alaska natives in the preparation of their said ballots.

Respectfully submitted.

J. A. HELLENTHAL,  
JNO. R. WINN,

*Attorneys for Charles A. Sulzer.*

(Same date and heading as first.)

GENTLEMEN: Charles A. Sulzer, candidate for Delegate to Congress from Alaska on the Democratic ticket at the election held in the Territory of Alaska on the 5th day of November, 1918, the vote cast at said election which your honorable board is now engaged in canvassing, respectfully protest against your board considering or canvassing the vote cast at the precinct of Seldovia on the following grounds:

First. That at said election in this precinct there were more than 18 Alaska Indians or Alaska natives, descendants and members of the aboriginal tribes that inhabited Alaska; that these voters have not severed their tribal relations,

but live in tribal relations under the direction and control and domination of a chief as members of the Kenai Indian Tribe; that they do not speak, read, or write the English language and are not citizens of the United States or entitled to vote at said election; that nearly all of these Indian voters gave their sworn testimony in a recent contest between Sulzer and Wickersham before the House of Representatives of the United States Congress, in which they stated under oath that they could not read or write the English language and that they were members of the Kenai Indian Tribe.

Second. That it is evident from the returns of said election now before you that there was gross election fraud committed in the election held in this precinct, because, notwithstanding that these Alaska natives who could not read or write the English language, it does not appear that any of the judges of election assisted them or any of them in the preparation of their ballots.

Respectfully submitted.

J. A. HELLENTHAL,  
JNO. R. WINN,  
*Attorneys for Charles A. Sulzer.*

(Same heading and date as first.)

GENTLEMEN: Charles A. Sulzer, candidate for Delegate to Congress from Alaska on the Democratic ticket at the election held in the Territory of Alaska on the 5th day of November, 1918, the vote cast at said election, which your honorable board is now engaged in canvassing, respectfully protest against your board considering or canvassing the vote cast at the precinct of Iditarod on the following grounds:

First. That in the conducting of election held in the precinct of Iditarod, the judges of election, in violation of the statutes, permitted more than 20 voters who had not resided within said election precinct for 30 days previous to the date of election to vote, that a great number of said 20 voters did not reside in the Iditarod precinct at all, but were temporarily present there only on the day of election.

Second. That the election held in said precinct is void for the reason that said election was not called for said precinct or the notice of said election was not given and the officers in said election were not appointed as provided by section 395 of the Compiled Laws of Alaska. That the common council of the said town of Iditarod, which comprises said election precinct, did not appoint the officers of said election until one week before said election was held and did not post the required notices of said election until one week before said election was held and did not publish the required notice of said election in a newspaper of general circulation in said town and precinct until one week before said election was held.

Respectfully submitted.

J. A. HELLENTHAL,  
JNO. R. WINN,  
*Attorneys for Charles A. Sulzer.*

(Same date and heading as first letter.)

GENTLEMEN: Comes now Charles A. Sulzer and protests against the counting by your honorable board of the votes from the precinct of Loudon on the ground that it appears on the face of the returns that the judges of election wholly failed to keep an election register as required by the laws of Alaska, or otherwise, or at all, and wholly failed to keep any record of the person by whom the votes cast in the precinct, if any were cast, were actually cast.

Respectfully submitted.

J. A. HELLENTHAL,  
JNO. R. WINN,  
*Attorneys for Charles A. Sulzer.*

(Mr. Marshall submits protest.)

JUNEAU, ALASKA, February 19, 1919.

To the Territorial Canvassing Board, Juneau, Alaska.

GENTLEMEN: Your attention is called to the fact that section 396 of the Compiled Laws of Alaska provides, with respect to elections for Delegate to Congress from Alaska, that "at least 30 days before the date of said first election, and at least 60 days before the date of each subsequent" the commissioner in each of said election districts shall "issue an order and notice, signed by him and entered in his records in a book to be kept by him for that purpose," etc.



It appears from the order on file in your office that the commissioner at Fortymile did not issue the order above provided until the 1st day of October, 1918, or 35 days before the date set for the election.

We therefore, on behalf of Hon. James Wickersham, challenge the vote cast at the voting precincts within said Fortymile commissioner's precinct, namely, Chicken, Moose Creek, and Franklin election precincts, and protest the canvass of the same.

Respectfully submitted,

JOHN RUSTGARD.  
JOHN B. MARSHALL.

(Chairman reads opinion of Attorney General.)

FEBRUARY 18, 1919.

Hon. THOMAS RIGGS, Jr.,

*Governor and Chairman of Canvassing Board, Juneau, Alaska.*

SIR: I have your letter of February 10, 1919, requesting my opinion as to certain questions which have arisen before the canvassing board now engaged in canvassing the vote cast at the general election held November 5, 1918. Among the questions submitted are the following:

1. Whether or not the powers of the board consist merely of the compilation of the returns found on the certificates of the various voting precincts, or whether the board is empowered to scrutinize every ballot and to decide as to its validity, taking such action thereon as it may consider just and fair.

2. Whether or not, in cases wherein ballots have been marked with crosses on the right side of the name of the candidate instead of in the square on the left side, provided for that purpose, it is within the power of the canvassing board to reverse the decision of the judges of election in accepting or rejecting such ballots.

3. If it is within the power of the canvassing board to reverse the decision of the judges of election in cases such as mentioned in the preceding question, should such ballots be counted or rejected.

4. What is the power and duty of the canvassing board generally with relation to sustaining or rejecting ballots not marked in the regular manner, but which indicate by marks outside of the proper square for whom the voters intended to vote.

The powers and duties of the canvassing board, so far as defined, are set forth in section 403 of the Compiled Laws of Alaska (act of May 7, 1906), as follows:

"SEC. 403. The governor, the surveyor general, and the collector of customs for Alaska shall constitute a canvassing board for the Territory of Alaska to canvass and compile in writing the vote specified in the certificates of election returned to the governor from the several election precincts as aforesaid."

Succinctly stated, the question presented is, Are the powers and duties of the canvassing board, as defined in section 403, purely ministerial, or are they broad and judicial?

If ministerial only, then the board should first satisfy itself of the genuineness and authenticity of the returns and that all certificates held indispensable by the law are present, and compare all the ballots cast, the poll lists and tally sheets, with the certificate of result in order to correct errors of computation, if any, and then confine itself to adding up the totals from the various election precincts, issuing certificates of election accordingly.

If the powers of the board are broad and judicial, then their duty is to make an entire recount of the vote of all precincts, correcting all errors of election officers.

There are decisions which support either view, but unfortunately none of them construe statutes similar to ours and our statute defines the duties of the canvassing board in very general terms, consequently the question presented is very difficult of solution and in advising the board of the proper course to pursue, I freely concede that there is room for a difference of opinion.

The answer to the questions propounded to me depends upon the proper construction of section 403, Compiled Laws of Alaska, or rather upon the proper construction of the words "canvass and compile in writing the vote specified in the certificates of election." The word "canvass" has been variously defined where the same is used in connection with defining the duties of election officers, its meaning varying according to the terms of the various statutes. It is used alike where the canvassers have broad judicial powers and the power

of final determination of the result of an election and where their powers are purely ministerial and consist solely in adding up the totals as shown in the various certificates of election and ascertaining and declaring the result. No light can be thrown upon the meaning of the word "canvass," as used in our statute, from these decisions.

Section 114, volume 9, Ruling Case Law, states the following:

"The board of official canvassers to whom the boards of election of the several divisions return their certificates showing the number of votes cast for each candidate is liable to err in overestimating its powers. Whenever it is suggested that illegal votes have been received, or that there were other fraudulent practices at the election, it is apt to imagine that it is its duty to inquire into these alleged frauds and to decide on the legality of the votes. Its duty, however, is almost wholly ministerial—to take the returns as made from the different voting precincts, add them up, and declare the result. Questions of illegal voting and fraudulent practices are passed on by another tribunal. The canvassers are to be satisfied of the genuineness of the returns; that is, that the papers presented to them are not forged and spurious; that they are returns, and are signed by the proper officers; but when so satisfied they may not reject any returns because of informalities in them or because of illegal and fraudulent practices in the election. The simple purpose and duty of the canvassing board is to ascertain and declare the apparent result of the voting. All other questions are to be tried before the court or other tribunal for contesting elections or in quo warranto proceedings."

The language above quoted is from the opinion of Justice Brewer in the case of *Lewis v. Marshall County* (22 Am. Rep., 275). Many cases are cited to support the above, and many others may be found.

"The election laws place the responsibility of determining the result of each election precinct upon the election officers and leave to the canvassing board only the duty of ascertaining the result from the returns made by such officers." (State ex rel. Harvey V. Mason, 9 L. R. A. (N. S.) 1123, citing McCrary on Elections, 4th ed., secs. 263-265.)

The powers of the judges of election are defined in section 397 and section 402 of the Compiled Laws of Alaska. They are necessarily endowed with judicial powers, and among these powers is the power of deciding upon the legality or illegality of a given ballot. After counting the ballots, as provided by section 402, "they shall thereupon, under their hands and seals, make out in duplicate a certificate of the result of said election, specifying the number of votes, in words and figures, cast for each candidate, and they shall then immediately carefully and securely seal up in one envelope one of said duplicate certificates and one of the registers of voters, all the ballots cast, and all affidavits made, and mail such envelope, with said papers inclosed, at the nearest post office by registered mail, if possible, duly addressed to the governor of Alaska at his place of residence, with the postage prepaid thereon."

If we apply the strictest construction to section 402 it will be noted that this certificate is required to specify the number of votes, in words and figures, cast for each candidate. Nothing else is required to be contained in this certificate. It need not contain any other data. All that is required is that the judges shall make a certificate of the result of the election, stating the number of votes cast for each candidate. No statement of the rejected ballots, spoiled ballots, or other data pertaining to the proceedings of the election is necessarily required to be contained in this certificate, which is to be certified by the judges and sent to the canvassing board.

The canvassing board, by section 403, is to canvass the vote specified in the certificate of election. They are required by the language of the statute to canvass no other votes. The rejected ballots not being required to be mentioned in the certificates of election, it follows from a strict construction of the language of the two sections that the canvassing board is not required to do anything with respect to the rejected ballots. This view is borne out further by the fact that section 403 further provides:

"In case it shall appear to said board that no election returns as hereinbefore prescribed has been received \* \* \* the said board may accept in place thereof the certified copy of the certificate of election of such precinct received from the clerk of the court and may canvass and complete the same with the other election returns."

The words "canvass and compile" are again used in this section and with relation only to a certified copy of the certificate of election, which is unaccompanied by any other document.

The sections of the act of May 7, 1906, defining the duties of the canvassing board are very indefinite and uncertain. It is almost impossible to determine with any degree of certainty from the language of these sections what was intended. It is certain, however, that the judges of election in the various precincts are endowed with judicial powers, both as to determining the right of persons to vote and as to the counting of the votes after they have been cast. It does not appear affirmatively from any part of the act that the canvassing board is likewise endowed with judicial powers, unless such powers are to be held to be included within the meaning of the word "canvass." On the contrary, judging from the language of the act alone, the powers of the canvassing board seem to be purely ministerial. Their duties are, or seem to be, limited by the language of the act to canvass and compile the vote specified in the certificates of election. The general rule is that the duties of canvassing boards are purely ministerial, although no cases can be found which construe statutes as indefinite and ambiguous as the one in question. It must be remembered that the act of May 7, 1906, was drawn long prior to the passage of the official ballot act and the duties of the canvassing board defined therein applied to an election to fill but one office, and the form of ballot required to be used to vote for that office was very simple. It would have been an easy matter to have clearly and explicitly defined the duties of the canvassing officers in canvassing the returns from such an election so that there would be no doubt as to what was intended. Yet, notwithstanding all this, the powers of the canvassing board with relation to their right to reverse the decision of judges of election are not defined. The act was either drawn very carelessly or with the view that it should admit of whatever construction might suit the occasion. It is very incomplete in other respects. There is no direction as to how long the board should remain in session, nor as to what their duty is with respect to missing returns or those not arriving in due course, nor what action they should take with regard to correcting or permitting the corrections of returns where the deficiencies are capable of correction. All these absent provisions are common to modern election laws.

Now, it seems that the judges of election in certain precincts have refused to count certain ballots wherein the voters attempted to vote by placing the cross on the right side of the name of the candidate, instead of in the square provided for that purpose to the left of the name. If it be the law that the canvassing board is empowered to reverse the decision of the judges of election in such a case, then it would follow that they are empowered to reverse the decision of the judges of election in all similar cases, and also it would follow that if the canvassing board has the power to count a vote which the judges have wrongfully rejected, they must necessarily have the power to reject a vote which the judges have counted. It would be absurd to say that the canvassing board can count votes rejected by the judges of election and can not reject votes counted by the judges of election. The question whether or not a vote can be counted where the cross is placed outside of the square provided for that purpose is a legal question upon which many judicial authorities can be found and which are by no means in accord. If the canvassing board has any judicial powers and duties with relation to such matters, it is their duty to take consideration of all such cases; in other words, to make an entire recount of the whole vote cast at the election in all of the precincts. I am of the opinion that this was not intended by the act. A recount is not ordinarily the duty of canvassing boards. It is one which would impose a great and unusual burden upon the board. The duties ordinarily pertaining to canvassing boards should occupy but a few days, but if it is to be held that it is the duty of the canvassing board to examine each ballot cast at the election to see whether or not it has been rightfully counted or rightfully rejected, then the performance of their duties, accompanied as it is by the labor of deciding many legal problems, would necessarily involve many weeks. In this connection, it must be remembered that when the election law in question was passed the canvassing board was without legal counsel or means of employing the same. These considerations mitigate against the view that the canvassing board is to be considered as having judicial power. Yet, if the canvassing board is empowered to reverse the judgment of the judges of election in a single instance of the kind mentioned, then it is their duty to examine every ballot which accompanies the returns. This, as stated before, is virtually making a recount, which I do not believe was contemplated by the statute.

In the written opinion given by me to the canvassing board, which canvassed the election of two years ago, I stated as follows:

"It may be conceded that the almost universal rule is that a canvassing board can not go behind the returns to look for illegalities or fraud in the conduct of the election; nor should it consider trifling defects in the returns or slight omissions of the returning officer. The duties of canvassing boards are purely ministerial. They are to consider only what appears on the face of the returns. Even in cases of doubt as to the legality or illegality of certain ballots, they are not to go behind the certificate of the judges of election."

As the case presents itself upon the questions submitted to me by the board, their powers and duties are either very broad and judicial, involving a vast amount of time and labor, or are purely ministerial and consistent with a strict construction of the language of the act. I am of the opinion that the canvassing board should follow the latter construction; that they should not review the decision of the judges of election with regard to the acceptance or rejection of votes or ballots.

Although the duties of the canvassing officers are purely ministerial with respect to the matters hereinbefore discussed, they have, according to all the authorities, certain quasi judicial powers and duties. They should examine all the returns, which include the certificate of the result, the register of votes, the ballots cast, and all affidavits made, in order to be satisfied of their genuineness; they should compare the number of ballots cast with those counted, as shown by the certificates, in order to correct errors of computation, if any; they should see that all certificates required by law are properly filled out; they should reject any returns where certificates are lacking which, under the decisions, are held to be indispensable, such as the certificate of the result and the certificate explaining the use of unofficial ballots.

I am of the opinion that there is nothing in the act or in any of the decisions construing other election laws which lays any further duties upon the canvassing board than those above mentioned.

This being my opinion upon the general question as to the powers and duties of the canvassing board with relation to reviewing the action of judges of election, it is unnecessary for me to advise you as to the specific instances of the rejection of ballots by the judges, cited by you, or as to the propriety of the action of the judges of election in these instances.

Whatever error the judges of election may have committed in the acceptance or rejection of ballots can only be corrected by the tribunal having jurisdiction to try election contests.

Respectfully submitted.

GEORGE B. GRIGSBY,  
*Attorney General.*

The CHAIRMAN. In other words, his opinion is that we are merely to note all the certificates required by law, see that the additions are properly made, that the proper number of ballots are there, etc.

Mr. DAVIDSON. Mr. Chairman, this is quite a lengthy decision or opinion, and I ask that we adjourn for two days and that I be furnished with a copy, so that I can make a study of this before further action is taken.

The CHAIRMAN. Do you think it is necessary to adjourn for two days? I can have a copy furnished you this afternoon.

Mr. DAVIDSON. Well, I don't see any particular hurry; we have to get a whole lot of stuff from the other divisions that are not here yet and can't be here, so I can't see how it would make any difference. We can't finish it, anyway. If we were only going to take up the certificates, why that is a short matter.

The CHAIRMAN. What is your opinion, Mr. Garfield?

Mr. GARFIELD. I'm agreed to that. It will necessitate going over the work.

The CHAIRMAN. It will necessitate going over our work, and where we have made changes by counting or rejecting certain ballots, we'll have to abide by the decisions of the judges of election, and those items——

Mr. DAVIDSON (interrupting). In other words, Mr. Chairman, it means that the work we have done is to be thrown away, and we have to do it over again.

The CHAIRMAN. In a great many precincts—not all of them, because the majority of the precincts were found to be all right.

Mr. GARFIELD. We can arrive at those others from our notes.

The CHAIRMAN. We can arrive at the others from our notes very largely. I've got some further communications, but I think we can excuse the checkers.

Mr. DAVIDSON. Well, I would like to have time to digest the thing.



The CHAIRMAN. I think that is perfectly proper.

(The chairman reads the following opinions of the Attorney General, all of the same date as the first, and similarly headed:)

SIR: I have your communication of February 10, 1919, submitting to me the question of whether or not a ballot was properly rejected because the voter, while otherwise qualified, had not been in the precinct in which he attempted to vote for a period of 30 days immediately preceding the election. A copy of the challenge oath taken by the voter accompanies your communication, and is as follows:

"I do solemnly swear (affirm) that I am 21 years of age and a citizen of the United States; that I am an actual and bona fide resident of Alaska, and have been such resident during the entire year immediately preceding this election, and have been a resident of this voting precinct for 30 days next preceding this election, and that I have not voted at this election; that the place from which I came immediately prior to living in this precinct was Dawson, Yukon Territory, and that I resided in said Dawson for four years, six months. So help me God."

The form of oath taken by the voter in this case was in the identical language required by the provisions of section 401 of the Compiled Laws of Alaska, and was duly signed and sworn to. Section 401, Compiled Laws of Alaska, further provides that when the voter has made the required affidavit, he shall be allowed to vote. The judges of election were in error in rejecting the vote. However, it seems the vote was not permitted to be cast and the canvassing board is powerless to correct the error.

Respectfully submitted.

GEORGE B. GRIGSBY, *Attorney General*.

SIR: You have submitted to me the following questions which have arisen in the canvass of the vote cast at the last general election:

1. Should a vote be counted where a pencil line has been drawn through one or more names, leaving the proper number of names to be voted for blank? For instance, in voting for Territorial Senator, where there are four candidates, and a vote can be cast for only one, the names of three candidates have a pencil line drawn through them.

2. Where ballots are similarly prepared, but the cross appears opposite the unscratched name.

In accordance with an opinion rendered by me to your board of even date herewith, I have to advise you that the action of the judges of election in the various election precincts in the acceptance or rejection of irregularly marked ballots is a matter over which your board has no appellate jurisdiction. Whatever errors may have been committed by the election judges in this respect can only be corrected by the tribunal having jurisdiction to try an election contest.

Respectfully submitted.

GEORGE B. GRIGSBY, *Attorney General*.

SIR: I have your letter of February 11, 1919, in which you request my opinion on the subject of the qualifications of voters at general elections in Alaska, particularly with reference to whether or not 30 days' residence in the precinct in which the voter offers to vote is necessary, and calling my attention to the conflict between the Federal and Territorial statutes.

Section 394 of the Compiled Laws of Alaska (act of May 7, 1906) fixes the qualifications of voters for the office of Delegate from Alaska as follows:

"SEC. 394. All male citizens of the United States, 21 years of age and over, who are actual and bona fide residents of Alaska, and who have been such residents continuously during the entire year immediately preceding the election, and who have been such residents continuously for 30 days next preceding the election in the precinct in which they vote, shall be qualified to vote for the election of a Delegate from Alaska."

Section 17 of the organic act of Alaska (act of August 24, 1912) entitled, "An act to create a legislative assembly in the Territory of Alaska, to confer legislative power thereon, and for other purposes," is as follows:

"SEC. 17. That after the year 1912 the election of Delegate from the Territory of Alaska provided by 'An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska,' approved May 7, 1906, shall be held on the Tuesday next after the first Monday in November, in the year 1914, and every second year thereafter on the said Tuesday next after the first Monday in November, and all of the provisions of the aforesaid act



shall continue to be in full force and effect, and shall apply to the said election in every respect as is now provided for the election to be held in the month of August therein."

This section of the organic act (which is the constitution of Alaska) continued in force all of the provisions of the act of May 7, 1906, above referred to, including the provision fixing the qualifications of electors for the office of Delegate from Alaska.

The qualifications of electors for members of the legislature are fixed by section 5 of the organic act, as follows:

"That the qualifications of electors, the regulations governing the creating of voting precincts, the appointment and qualifications of election officers, etc., shall be the same as those prescribed in the act of Congress, entitled 'An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska' approved May 7, 1906."

Thus it will be seen that the qualifications of electors at general elections in Alaska are fixed by our organic act.

The Legislature of Alaska of 1915, in chapter 25, of the Session Laws of Alaska, 1915, attempted to change the qualifications of voters with respect to the residence required.

Section 22 of said chapter provides, in effect, that any person of the age of 21 years, or more, who is a citizen of the United States, who has lived in the Territory of Alaska one year and in the judicial division in which he or she offers to cast his or her vote 30 days immediately preceding such election, shall be entitled to vote at all elections held therein.

I have to advise you that the legislature in attempting to change the qualifications of voters by this act exceeded its powers, the qualifications having been fixed by the act of May 7, 1906, and continued in full force and effect by the organic act or constitution of Alaska. The organic act expressly authorized the legislature to extend the elective franchise to women, but in no other way authorized the changing of the qualifications of electors by the legislature.

Respectfully submitted.

GEORGE B. GRIGSBY,  
*Attorney General.*

SIR: I have your letter of February 14, 1919, requesting my opinion as to the legality of certain ballots cast at the recent election, and counted by the election judges, from which the numbered coupon has not been detached.

What I have said in a communication of even date herewith with reference to the powers and duties of the canvassing board with relation to reversing the decision of the judges of election in accepting or rejecting ballots, more or less irregularly marked, applies with equal force to their action in counting the ballots on which the numbered coupon remains attached. For the reasons set out in said communication, I would advise the canvassing board that it is not their power and duty to disturb the finding of the judges of election.

In addition to this, I will state that the election law passed by the legislature of 1915 makes no provision for the rejecting of ballots on account of distinguishing marks. Section 3 of chapter 25, Session Laws of Alaska, 1915, provides:

"SEC. 3. The ballots shall be headed: 'Official ballot' of the judicial division in which it is issued, and at the top thereof, above a perforated line, shall be duplicate stubs bearing consecutive numbers; one of said stubs to be retained by the election judges upon presenting the ballot to the voter; the other stub to be torn from the ballot by the election judges and compared and retained upon the return of the voter from the voting booth \* \* \*"

Section 17 provides that when a voter enters the polling place he shall be given an official ballot by one of the election judges with which he shall retire to the booth or screen and there mark the same for the candidates of his choice.

Section 24 provides a penalty to be imposed upon any person or officer who has assumed the duties of any officer under the provisions of the act, who shall willfully and corruptly neglect and refuse to perform any duty or do anything required of him by the act.

There is no provision anywhere in the act declaring the consequences to the voter or his vote of the failure of an election judge to perform the duty

required by law in detaching the numbered coupons from the ballot, in the absence of such a provision and of any provision relating to distinguishing marks, there are no authorities which hold that ballots cast under such circumstances are void. On the contrary, the authorities hold otherwise. (*Lynip v. Buckner*, 41 Pac., 782; *James B. McCrane v. County of Nez Perce*, 112 Pac., 312; *Farnham v. Boland*, 66 Pac., 200.)

In the latter case the court said:

"Those ballots were properly counted which the officers of election placed in the ballot box without first tearing therefrom the numbers attached. It is quite apparent that these violations of the law arose from the carelessness of the election officers. Such carelessness or malconduct upon the part of those officers may render them liable to severe penalties, but that is all. The law as to identifying marks refers to marks made by the voter, and it is only marks made by him that demand the rejection of the ballot. After citing many cases to the point, this court said in *People ex rel. Lee v. Prewett*, 124 Cal., 13; 56 Pac., 621: 'The principle underlying these decisions is that the rights of the voters should not be prejudiced by the errors or wrongful acts of the officers of election, unless it shall appear that a fair election and an honest count were thereby prevented.'"

In *Freshour v. Howard*, 77 Pac., 1101, the court held:

"The failure or neglect through ignorance or carelessness on the part of the precinct election officers, to remove the number of the ballot, did not have the effect to make the ballot illegal on the ground of a distinguishing mark placed thereon by the voter."

See also in *re Groton*, 118 N. Y. Sup., 417.

It does not appear anywhere in the election law of 1915 that it is required that the voter is handed a ballot by the election officer with a number on the stub corresponding to the number set opposite the name of the voter in the election register. It can not, therefore, be presumed that the retention of the stub on the ballot afforded any means of identification.

Respectfully submitted,

GEORGE B. GRIGSBY, *Attorney General*.

SIR: I have your communication of February 10, 1919, submitting to me the following questions which have arisen in the canvass of the vote cast at the last general election:

1. Where the jurat of a judge of election has not been accomplished but where the certificates have been properly filled out and signed, should the votes be counted?

2. Where the jurat has not been properly signed—in other words, where the judges of election evidently intended to swear in each other, but the affiant failed to fix his signature, should the votes be counted?

These questions were presented to me by the board of canvassers of the general election of 1916 and are answered by me in an opinion of February 19, 1917, as follows:

"The failure of election judges to execute oaths is an immaterial irregularity in the conduct of the election which does not affect the result, the courts unanimously holding that notwithstanding the failure of these officers to take oath and otherwise qualify, nevertheless if they perform the functions of judges, their acts are legal as the acts of de facto officers."

(Citing *Whipley v. McKune*, 12 Cal., 362; *Sprague v. Norway*, 31 Cal., 173; *Sanders v. Lacks*, 142 Mo., 255; *Hefron v. Mahoney*, 9 Mont., 497; *Stimson v. Sweeney*, 17 Nev., 309; *People v. Cook*, 59 Am. Dec., 451.

I therefore advise you that the irregularities above referred to are immaterial.

Respectfully submitted.

GEORGE B. GRIGSBY,  
*Attorney General*.

The CHAIRMAN. The one opinion is the ruling opinion.

Mr. GARFIELD. That is the basic opinion.

The CHAIRMAN. The basic opinion. The attorney general handed this to me last night, and he said there was one question which he didn't answer, because he didn't have enough information [reads note]: "Write letter about precinct in which there is no register of voters and election register." What precinct is that?

Mr. GARFIELD. I don't recall now.

Mr. HELLENTHAL. I think it is Louden, Governor.

## LOUDEN—REOPENED SECOND TIME.

The CHAIRMAN. Registration book signed by the voters; the registration book is signed by the judges of election. In the election register the names are not indicated——

Mr. GARFIELD (interrupting). Duplicate election register.

The CHAIRMAN. In the duplicate election register and tally book the names of the voters do not appear.

Mr. GARFIELD. Nor no indication that they voted.

The CHAIRMAN. The certificate at the foot of the election register is not filled in in any way at all.

Mr. GARFIELD. Filled in or signed.

The CHAIRMAN. Filled in or signed. The tally seems to be correctly made, in accordance with the official ballots submitted. The certificate of the judges of election to election returns is properly signed. There are nine names in the registration book and nine official ballots cast, with the returns. Judge Hellen-thal and Judge Winn, do you wish to examine these books as attorneys for Mr. Sulzer?

Mr. HELLENTHAL. I think I went over them one time. They kept a registration book, showing who the voters were that had a right to vote, but they did not keep any election register of who the persons were that actually did vote. The record shows who had a right to vote, but it doesn't show that the persons who had the right to vote did vote. They might have been others who had no right.

The CHAIRMAN. I have got some telegrams here [reads]:

NOME, February 15, 1919.

RIGGS, Governor, Juneau:

Election supplies were furnished Bethel, Bluff, Port Clarence, Taylor, Wade Hampton Nos. 1 and 2 precincts. Returns received from Bluff, Taylor, Port Clarence, and Solomon. No precincts established at Pilgrim River or Shelton.

McGANN, Clerk.

NOME, ALASKA, February 15, 1919.

RIGGS, Juneau:

Certified copy order and notice of election for Cape Nome, Solomon, and Bluff voting precincts mailed your office August 30. You could not have received Cape Nome precinct without other two as all in one document. Advise.

O'NEILL.

FAIRBANKS, ALASKA, February 15, 1919.

RIGGS, Governor, Juneau:

Only one voting precinct Kantishna recording precinct; no voting precinct Chena, Bonfield, Tolstoi, Candle, Akiak, Mouth of Crooked. Only 49 voting precincts this division November election.

CLARK, Clerk.

The CHAIRMAN. We have 49 returns.

Mr. DAVIDSON. I thought that would just about clear it up.

The CHAIRMAN. The only one he doesn't mention in here is Anvik. He says 49 voting precincts, and we have 49 returns.

Mr. DAVIDSON. How would it be to wire in direct and ask him about Anvik?

The CHAIRMAN (picking up telegram). From Lang:

VALDEZ, ALASKA, February 15, 1919.

RIGGS, Governor, Juneau:

On June 11, 1918, all commissioners this division notified regarding division of recording districts into voting precincts for November, 1918, election. Received answers from all, including Aleutian Islands, one precinct Chispa (Chisana), one precinct Iliamna, one precinct Bristol Bay, two precincts Choggiung and Nushagak. No voting precincts in this division by name Allen and Gilpatrick.

LANG, Clerk.

Another one from Clark:

FAIRBANKS, ALASKA, *February 15, 1919.*

Riggs, Governor:

Received direct word from Kantishna, commissioner at Nenana, to-day, that notices election properly posted.

CLARK, Clerk.

The CHAIRMAN. Now, Mr. Donohoe says that the only precinct in the Aleutian Islands was Unalaska.

(Adjournment taken until 10 a. m.. Friday, February 21.)

FRIDAY, FEBRUARY 21, 1919.

The board met, pursuant to adjournment, at 10 a. m.

The CHAIRMAN. Here is a telegram from Clark, in amplification of the request as to what the voting precincts were. He says:

FAIRBANKS, *February 20, 1919.*

Riggs, Governor, Juneau:

Never heard of voting precinct Anvik. No returns ever received from there.

CLARK, Clerk.

Is there anything to submit to the board?

Mr. GARFIELD. Why, why not discuss that opinion further in relation as to whether or not you would take it up before or after we decide upon further action.

The CHAIRMAN. I think that's one of the things that should be taken up right away before we go into the matter of returns any further.

Mr. GARFIELD (after looking through opinion of Attorney General). I move you that we accept the opinion of the Attorney General as submitted to us upon the 18th instant as our guide in making the canvass of the election returns and that we proceed with the recanvass and tally of the returns in accordance with the advice set forth in the opinion; and in addition I would suggest that we prepare, that we set aside our present tally sheets and prepare new sheets, making a new return throughout, or a new recanvass throughout.

Mr. DAVIDSON (reads):

"I made the request to the board at our last meeting for two day's time in order to go into Mr. Grigsby's opinion and check it up with other opinions given by him and others. I have not had the time to look up any law on the subject, but have expended considerable time in going through the proceedings of the canvassing board of 1917 and also through Judge Jennings's decision on the case that arose upon the doings of that board. I find that Mr. Grigsby does not agree with Judge Jennings. Neither does he agree with his own opinion as given to us in 1917 on the same matters as were submitted to him by the present canvassing board.

"Mr. Grigsby, in his present opinion, states that he does not know from the wording of the act just what powers this board has, and says:

"I freely concede that there is room for a difference of opinion."

"He also says that the matter hinges upon the word 'canvass'—what it means—and confesses that none of the decisions throw any light upon it. 'No light can be thrown on the word "canvass" as used in our statute from these decisions.'

"Therefore I take it that Mr. Grigsby is simply groping in the dark and wrote his present opinion the way he feels to-day, and as a result appears not to be of the same mind on the same questions that were presented to him in 1917. Proof of this I will give you later.

"He says that it is certain that the judges of election in the various precincts are endowed with judicial powers both as to determine the right of persons to vote and as to counting the votes after they have been cast, but holds that the canvassing board has no judicial power whatever. One reason given is this:

"In this connection it must be remembered that when the election law in question was passed the canvassing board was without legal counsel or the power to employ the same. These considerations mitigate against the view that the canvassing board is to be considered as having judicial powers.

"The attorney general seriously argues above that because this canvassing board at the time of its creation had no power or means of employing an attorney it had therefore no judicial powers. At least this is one of his argu-

ments, and it is a difficult one to understand. By the same reasoning election boards, which also have no power or means of employing legal counsel, should also be without judicial powers. But Mr. Grigsby specifically states that they have such powers. It must be confessed that if they have, such powers must be based upon some other ground than the one just referred to.

"He also states that—

"The act was either drawn very carelessly or with the view that it should admit of whatever construction might suit the occasion."

"It seems to me that Mr. Grigsby has used this difficulty which he states to exist in the act and is willing to use it and put any construction upon the act which seems to answer his purpose best at the time he is writing any particular opinion.

"I will now refer you to a section of the decision of Judge Jennings in the famous canvassing board case of two years ago, in which the judge says:

"The things required to be sent to the governor, and which, according to the statute, constitute the return, are (1) the certificate of the election board as to the result of said election; (2) one of the registers of votes; (3) all the ballots cast; (4) affidavits (of challenged voters).

"The canvassing board is to canvass and compile that return—not simply a part of that return. For the canvassing board to confine itself to a consideration of only a part of that return would not be to canvass that return. When the statute directed the duplicate register and all ballots to be sent to the governor, in addition to the certificate of the judges, it must have had an object in so doing. If the canvassing board is to take the certificate as the be-all and end-all of the returns—if the canvassing board is a mere adding machine to totalize the votes as certified by the election board—why the requirement that the registration book and the ballots be sent to the board? Why not simply provide that the certificate of the judges be sent? The very object and purpose of requiring the register of votes and all ballots to be sent along with the certificate and making them a part of the return must have been so that they may all come under the eye of the canvassing board, the one acting as a check upon the other, and that from the return as a whole the canvassing board shall add the figures of votes cast in any given precinct to the other returns likewise canvassed.

"Let us suppose the board to canvass only a part of the return. It might well happen that in the part not canvassed something appears which absolutely nullifies the effect of that part which is canvassed, or renders the whole return so uncertain and indefinite that it can not be intelligently canvassed at all. For instance, the register of votes is as much a part of the return as the certificate of the election board and so also are the ballots. Now, suppose that that part of the return which is called the register of votes should show that in a given precinct only."—

Mr. GARFIELD. Charlie, just a minute. You read "Register of voters," and it is written "Register of votes." Now, there's a difference between the two. The register of voters is that register wherein they sign and the register of votes is that register which is made by the election board.

Mr. DAVIDSON. Well, it's a part of the—

Mr. GARFIELD (interrupting). Two different documents. You are reading it "Register of voters."

Mr. DAVIDSON. Just what it says in this decision—votes—because I've got a document that I want you to examine later on.

Mr. GARFIELD. I just offered that for your attention.

The CHAIRMAN. May I ask one or two questions here, General?

Mr. DAVIDSON. Yes.

The CHAIRMAN. The data you are giving here are Mr. Grigsby's oral opinions?

Mr. DAVIDSON. Just as he give them to us. Here's the minutes, and I want to submit this to you. Here's the minutes as written up last year and there's the proceedings, and you'll notice that is the very first thing we did. Here is where we commenced and there is the first thing that came up.

The CHAIRMAN. May I ask if Mr. Grigsby did not subsequently give a written opinion?

Mr. DAVIDSON. Yes; oh, yes; he gave lots of opinions, and you'll find that none of them agree.

The CHAIRMAN. Isn't it true that he said he would like to look up the law a little more?



Mr. DAVIDSON. On this?

The CHAIRMAN. Yes.

Mr. DAVIDSON. No; it is not.

The CHAIRMAN. I'm asking you for information. I'm asking your view on the subject. I have never seen this before. I never had a chance to go through it. Except I've heard it incidentally.

Mr. DAVIDSON. Well, there is the record [resumes reading]:

"One hundred and fifty votes were cast and that the number of ballots returned was 250, and that the certificate of the election board showed that one of the candidates received 136 votes and the other candidate 64 votes in that precinct, it would be very evident that the certificate and the registration book and the ballots could not all speak the truth. The canvassing board surely would have to reject that entire return, for each part thereof would be utterly antagonistic to every other part thereof, and all can not stand; and the canvassing board could not go behind the return to find out which part of the return was true and which was false. If, however, the return taken altogether speaks intelligently, the canvassing board must hear what it says."

"It is true that Mr. Grigsby has attempted to agree with Judge Jennings's opinion, but I do not think that he has succeeded. I will leave that to you for your own judgment."

"I now wish to refer you to page 2 of the minutes of the meetings of the canvassing board, January to March, 1917, which is the official record, and which, as secretary of the Territory, I am the official custodian. The part I wish to call to your attention reads as follows: -

"GOVERNOR. Mr. Grigsby, the question which is confronting us is the matter of ballots rejected by the election board of precinct No. 1, Douglas, because they are marked on the right side of the ballot instead of on the left, as specified."

"It is apparent from the face of the ballot that the votes should be counted; that is, where the intention of the voter is apparent, as in this first ballot."

"Mr. GRIGSBY. You are entitled to count the vote."

"GOVERNOR. Your opinion to the board, then, is that this board should count these ballots, notwithstanding they are marked on the right-hand side instead of the left, the intention of the voter being apparent?"

"Mr. GRIGSBY. That is my opinion, and I so advised the board to count the ballots."

"GOVERNOR. I direct your attention to the last ballot of Douglas precinct No. 1."

"Mr. GRIGSBY. As far as any candidate is concerned, it does not matter; but as for the wet vote, it might be counted."

"GOVERNOR. We have sent for the Territorial counsel, because of the six votes in precinct No. 1, Douglas, not being counted, for the reason, evidently, although not stated in the slip, that they were marked on the wrong side. They were marked on the right-hand side instead of the left; hence are the only spoiled ballots not counted in precinct No. 1, Douglas."

"In precinct No. 2, Douglas, we find this: "Spoiled ballots not cast or counted. There are three. Evidently the number was torn off in the first instance by the election officer, but they failed to tear off the other number after the voter had voted."

"Mr. GRIGSBY. In other words, the judge spoiled the vote, if anyone did. There is a perforated number, and under the law the judge, as he hands out the ballot to the voter, tears off the number. The voter then marks his ballot and it is the duty of the board to tear off the second number. If they were not cast they would not be in the returns; they could not be in the returns if they were not cast."

"GOVERNOR. Do you mean they were never in the ballot box?"

"Mr. GRIGSBY. I do not see how they would send anything up here that they did not find in the ballot box, that was not cast. Can you tell who cast them? I would advise you to ascertain from the judges whether these votes were put in the ballot box, if not they should not be sent here, if voted they should be counted."

"GOVERNOR. This is No. 6614."

"Mr. PUGH. Here is a statement from the election board. The statement says "They were not cast or counted," therefore, we have to accept the statement of the board, that they were not cast or counted."

"GOVERNOR. I want to ask the Territorial counsel this question: Precinct No. 1, Douglas, a certain count with six ballots rejected, apparently because they were marked on the right side instead of the left. Is it the province, or does it come within the province of this board, to count these ballots, and include in the votes of precinct No. 1, Douglas, or omit them as though they never existed? In other words, is it the duty of the board to include these ballots in the count?

"MR. GRIGSBY. I do not want to be understood as stating that it is the duty of the board to examine the ballots from every precinct to see whether or not they are irregular, but where it is called to the attention of the board from the face of the ballots, that votes are not counted which should be, then it is their duty to count them.

"GOVERNOR. We will apply this rule all the way through with respect to these ballots."

"I have with me the original document which contains the above, and also the decision of Judge Jennings, which I have quoted from, and I ask the other members of the canvassing board to examine the same and satisfy themselves that the citations given above are correct.

"In view of the fact that we have already gone to the trouble and expended the time in examining all of these returns, going over all these ballots, segregating and tallying them under the belief that we had a perfect right to do so, I want to state that I believed at the time that we had a right to go over them, and I am now firmly of the opinion that we had a perfect right to do what we did do; and I object to throwing away all the work done and making a new canvass, and I shall vote to disregard Mr. Grigsby's present opinion in the particulars referred to above and follow his opinion as given two years ago, which happened to agree with my own personal views. I might mention that question 2, as propounded to Mr. Grigsby by this board, reads as follows:

"2. Whether or not in cases wherein ballots have been marked with crosses on the right side of the name of the candidate instead of in the square on the left side provided for that purpose, it is within the power of the canvassing board to reverse the decision of the judges of election in accepting or rejecting such ballots."

"One of the questions propounded to him two years ago was an identical one with this question 2 submitted to him by the present board. He held at that time that we must count all ballots marked with crosses on the right side as well as those which followed the law and were marked on the left side, and that we had a perfect right to reverse the election judge's decisions in these matters. In the present opinion, Mr. Grigsby holds exactly the opposite, and that the board has no power to go into the ballots and count them, or put in or throw out any ballot after they had been acted upon by the judges of election."

MR. GARFIELD. After going into this question as to the powers and duties of the canvassing board, it becomes clear to my mind that this board is constituted for the purpose of canvassing the returns from the several precincts in the Territory. It is necessary that this board should exist as a body because elections are held in the various parts of the Territory, and the returns are sent in, or should be sent in, to one central board for the purpose of canvassing and compiling the results of the election. From the opinion rendered by the attorney general, it is patent to my mind that the duties of this board are ministerial rather than judicial. They might have a quasi-judicial capacity, but generally speaking, it is my opinion that they can't go outside of the certified returns of the local election boards.

THE CHAIRMAN. After reading Gen. Grigsby's opinion, I am very much inclined that way myself. If we had not intended to follow the opinion of the attorney general, there was no reason for putting them up to him. We have called upon the attorney general for certain advice on the subject, and when we wrote the letters which were dictated in the open meeting of the board there was no objection raised.

MR. DAVIDSON. Mr. Chairman, I never—if you will look back through the record you'll see that I have always, at all times, said that I didn't care for Mr. Grigsby's opinion, because I had experience with them before.

THE CHAIRMAN. Well, so far as the board is concerned, I can not see how it can go back on the opinion of the legal adviser of the Territory. The board has asked him for an opinion and it seems to me, as long as we asked him for an opinion, it is the duty of the board to stay within that opinion, and unless

there is some other question that comes up in that connection. I will second Mr. Garfield's motion.

Mr. DAVIDSON. Of course I realized all the time that there was no use of my making any showing, but I want this for the record. A realized that no matter what I said on that question, or how much I brought here, I realized that the attorney general's opinion was going to be taken, but I want this for the record to show exactly the conditions; to show that Mr. Grigsby the last time, that he absolutely had the board count—and we counted under his supervision—he had us count those ballots, and we did count those ballots—the very same things that are here to-day, and that he knew that he had given that opinion all the time, and if it was good enough for the last board to go and count through the whole thing, why is it not good enough for this? Why should a man give an opinion one way one year and tell them they could do this and the next year another?

The CHAIRMAN. Well, I'm not so sure that his opinion last year should be considered as contradictory. He quotes from his opinion of last year in this.

Mr. DAVIDSON. Well, Mr. Chairman—

Mr. GARFIELD (interrupting). Well, there is another element, too, in the matter, and that is that his opinions last year were rendered without probably looking up the laws on the question and before the decision of the judge was rendered.

Mr. DAVIDSON. Well, the decision of the judge surely holds that you shant go into all of them.

The CHAIRMAN. I can not see anything inconsistent with the decision of the judge and the decision of the attorney general.

Mr. DAVIDSON. Well, of course, I have known that there is no use of my saying anything, but I felt I must have my say, and that I want to have my record show that, and I'm perfectly willing to follow the majority of the board and do whatever the board decides. The quicker we get at it the better.

The CHAIRMAN. You and I are not lawyers; we're engineers, and when we want advice on the law, we go to the lawyer; if we want advice on a medical subject, we go to a doctor. If a doctor or a lawyer tried to give us advice on engineering subjects, we'd laugh at him.

Mr. DAVIDSON. Yes; but after you have been on three canvassing boards, you'll be pretty well up on election laws.

The CHAIRMAN. Well, I'm perfectly well aware that nobody loves the canvassing board.

Mr. GARFIELD. Well, I'm not; I'm neither a lawyer nor an engineer; and I'm trying to look at this from a point of common sense; and if a majority of the people of the Territory elect an officer for the purpose of advising us on matters which we havn't any time or opportunity to look up, and if the advice seems reasonable to the ordinary citizen, acting for the best interests of the Territory, why, why not take it?

Mr. DAVIDSON. Mr. Garfield, does it look reasonable to you that we should do one thing last year under his advice and this year do another? If that is reasonable, well, I'll put in with you.

Mr. GARFIELD. Well, lawyers are like women—they change their opinions.

The CHAIRMAN. I'm not sure that there is anything inconsistent with his advice two years ago. I don't know about his oral advice.

Mr. DAVIDSON. Well, Mr. Chairman, I'm just pointing that out. That is for you to determine whether there is or not.

Mr. GARFIELD. The whole question seems to hinge, to my mind, upon the point as to whether the duties of the board are judicial or ministerial.

The CHAIRMAN. Absolutely.

Mr. GARFIELD. Now, Mr. Grigsby, in his opinion which he has rendered, has stated that it is, to a certain extent, an open question, but he believes that the weight of the authorities are on the side of ministerial.

Mr. DAVIDSON. I don't believe that he said that; I don't believe he said that the weight of the authority—

Mr. GARFIELD (interrupting). Well, he used words to that effect. I might not have correctly quoted him, but I'll read you just what he says [reads from opinion of Attorney General]: "I freely concede that there is room for difference of opinion." I didn't state exactly what he said.

Mr. DAVIDSON. Well, that, I quoted that in mine.

Mr. GARFIELD. Well, that is what I had reference to. I think there's a very valuable hint in the proposition outlined here. It does not devolve upon the

canvassing board to spend a great deal of time in this work. They're all ex-officio officers in this duty, and I don't think it contemplates that they should give as much time as it would be necessary to give to consider this matter judicially.

Mr. DAVIDSON. Well, Mr. Chairman, the canvassing board never has gone into the ballots as we have at this time. They have always simply taken the ballots that have been thrown out by the election judges and decided on them and has not gone into the main body of the ballot. That was my idea of the proper way to go through these, and only simply take those ballots that they laid out to one side and have acted upon; that they have refused to count.

The CHAIRMAN. The Attorney General very aptly, I think, points out the fact that if the canvassing board is empowered to go into rejected ballots, it is empowered to go into all ballots.

Mr. DAVIDSON. Sure they are; but that don't say that they have to go into them. I'm willing to take the judges of election all the time on the ballots they have counted. I'm always willing to do that.

The CHAIRMAN. As the matter now stands, Judge Wickersham has, by the action of the board, in counting various ballots, gained three votes over and above those of Mr. Sulzer. The board has three votes that were intended to be votes for Mr. Sulzer that were discarded. That would make that question a tie. At Fairbanks and Nenana, the rejected votes are evenly divided.

Mr. DAVIDSON. Mr. Chairman, how do we know?

The CHAIRMAN. Because we examined them and we made note of them in the minutes.

Mr. DAVIDSON. I didn't know that we examined Fairbanks.

The CHAIRMAN. Yes; we examined Fairbanks and made quite extensive notes in the minutes; and so there is, so far as the question of advantage between Judge Wickersham and Mr. Sulzer is concerned, the way things stand, there is none.

Mr. DAVIDSON. Well, Mr. Chairman, I want you to understand that so far as I'm concerned, I don't care whether there is any advantage for one or the other. That hasn't entered into it with me at all. I don't know how they stand. As I told you in the first place, that you'll find, in going through the canvass, that those votes as a rule balance in the end. There won't be very much difference, because they make as many errors practically on one side as the other, so there'll be practically no difference.

The CHAIRMAN. I was simply pointing that out, General, to show that it made no difference one side or the other, so far as the canvassing board has gone, how those votes were counted and would have been counted under the system we first started, and that it is perfectly permissible and reasonable to expect that the representatives of either side would see that, and that we can, so far as any personal feeling is concerned on either side, we can continue the canvass along the lines set down by Gen. Grigsby, and, in consequence, I second Mr. Garfield's motion, and it is so ordered.

Mr. DAVIDSON. I want my motion, or my vote to be shown in the record as against going over and doing this work all over again, after having done it once.

The CHAIRMAN. In other words, it is your wish to put the motion that the opinion of the Attorney General be disregarded?

Mr. DAVIDSON. Yes, yes; I have stated that why.

The CHAIRMAN. Well, now, Mr. Garfield's motion contemplated the making out of new canvass tally sheets. I think that the checkers might be excused and prepare those new sheets.

Mr. DAVIDSON. They'll have to be excused some time to prepare those sheets. some little job.

Mr. RUSSELL. When do you want candidates to present any challenge they have for a recount of any precinct?

The CHAIRMAN. They have been presented already.

Mr. RUSSELL. Well, will you accept before you reach your decision, will you accept a challenge?

The CHAIRMAN. We'll accept anything that's presented.

Mr. RUSSELL. Challenge for certain precincts?

The CHAIRMAN. For certain precincts.

Mr. RUSSELL. Will you accept a challenge from a party on a complete recount, or do you want it from a particular candidate?

The CHAIRMAN. You mean a recount?

Mr. RUSSELL. A recount of a certain precinct.

The CHAIRMAN. You mean a recount of—

Mr. RUSSELL. The ballots.

The CHAIRMAN (continuing). The returns of the judges of election?

Mr. RUSSELL. Yes; of certain precincts.

The CHAIRMAN. Well, I think that is covered by the opinion of the Attorney General—that we were to see that the proper number are there and that the necessary certificates are there.

Mr. RUSSELL. What I was getting at—I don't care to have it in the minutes; I'm just asking for information—what I want to find out is whether the board or how the board wants challenges to be made for a recount of certain precincts.

Mr. GARFIELD. In writing.

Mr. RUSSELL. Now, will the board accept that? Will the board accept a challenge for a recount affecting that line? For instance, one Republican candidate challenges a certain precinct, say, for instance, precinct No. 1, in Juneau. Now, will a recount be made for just that candidate for office or will it be made for the entire ticket?

The CHAIRMAN. Well, from the standpoint of the board, I should think it would be just for that one candidate.

Mr. RUSSELL. Well, what I'm getting at, Governor, is certain precincts. It wouldn't take very long to count them, and perhaps after a couple are counted and there is no errors discovered the whole thing may be waived. You see what I mean.

Mr. DAVIDSON. Well, Mr. Chairman, just hold on a minute. As I understand it, we're going to work under Mr. Grigsby's opinion, and he says we have no right to go into the ballots at all—absolutely we can't go into them.

Mr. GARFIELD. Not exactly that.

Mr. RUSSELL. Well, here, for instance, I come in here and challenge precinct No. 1 for Judge Wickersham and myself, for Delegate and senator, for instance. Well, now, will the board recanvass that precinct? You know it don't have to be done by the board, but will the board have that done? I don't mean any general challenge here and there, and indiscriminately, but I mean for several precincts.

Mr. GARFIELD. What do you mean by recounting them.

Mr. RUSSELL. I mean just take the ballots and recount them, to see whether they check up with the returns. For instance, you could have the checkers do that. The board don't have to do it.

Mr. DAVIDSON. Do you mean—for instance, there's 5 votes cast—do you mean to just count the ballots to see that there is 5 ballots there?

Mr. RUSSELL. No; suppose there's a precinct challenged and that precinct, for instance, was 46 for Sulzer, 15 for Russell, 47 Britt, 13 Russell. I mean Wickersham and, then, the other Russell. Now, if a joint challenge made, is made on that precinct, will this board ask their clerks to check that.

Mr. DAVIDSON. Why, Mr. Grigsby has just said we can't go into these ballots. How can we go into them and reject them if we haven't the power?

Mr. RUSSELL. Well, that's the thing I'm getting at.

Mr. GARFIELD. You want it done officially or informally?

Mr. RUSSELL. Officially. I don't want to cumber the record, but I want to know when the proper time is to present this challenge.

The CHAIRMAN. The proper time is any time, I think, and then the board will take any action on it as advised by the opinion of the Attorney General. I think he mentions that in here somewhere.

Mr. GARFIELD. My recollection is that he mentioned it there that you can count the number of ballots, compare them with the tally to see whether the same number of ballots are there as are tallied.

Mr. DAVIDSON. That is all you can do. You can't recount them.

Mr. RUSSELL. Well, of course, it is always customary, where a precinct is challenged, for a recount to be made.

Mr. GARFIELD. Is that done by the board or by the court?

Mr. RUSSELL. It's done by the board.

Mr. DAVIDSON. Not under this ruling.

Mr. RUSSELL. For instance, Charlie, in the senatorial contest, suppose that the vote was close between Mr. Britt and myself, and I had reason to believe that I was defrauded out of certain votes. I have got to have a recount made by the canvassing board or the legislature. There is no court in it between us.

Mr. GARFIELD. You mean, merely as a check upon whether the votes had been properly tallied, as indicated upon the ballots and not to go into the question of whether the ballot was properly prepared?



Mr. RUSSELL. To see whether the count is right or not—

Mr. GARFIELD. Whether the compilation and numerical ascertainment—

Mr. RUSSELL. No; whether the election board made notice of the count of their ballots.

Mr. GARFIELD. Well, that's what I'm trying to get at. You mean, taking into consideration the qualifications of the voter and everything?

Mr. RUSSELL. No; for instance, in Juneau precinct No. 1, there was about 300 votes cast. Understand? Now, for instance, I may want to challenge that precinct to see whether that count was correct there or not.

Mr. GARFIELD. I don't see why we couldn't go over the ballots without question.

Mr. RUSSELL. The usual way is to turn it over to the clerks.

Mr. DAVIDSON. That's exactly the point that I have been trying to make. Mr. Grigsby says that the only fellow that can do it is the proper authority, which would be the House of Representatives.

Mr. GARFIELD. You mean, consider the proper qualifications of the ballot, as to the way it's marked and everything of that kind.

Mr. DAVIDSON. He said if we have a right to go into one thing we have got the right to go into the other.

Mr. GARFIELD. I don't see it just that way.

Mr. DAVIDSON. I don't think you'll like that opinion when you get to working under it.

Mr. RUSSELL. For instance, down in the Oregon election, various State officials are on the canvassing board; the secretary of state is on the canvassing board. They recounted—oh, I forget how many they recounted for one candidate.

Mr. GARFIELD. Did they pass upon the qualifications of the voter and everything as returned by the election board?

Mr. RUSSELL. I don't know; I don't think that question arose at all. The only question was whether the clerks and judges made a fair count.

The CHAIRMAN. Here is the paragraph I had reference to. [Reads paragraph of attorney general's opinion.]

Mr. DAVIDSON. Well, that's all right, but you can't recount them.

The CHAIRMAN (repeating passage from paragraph just read). "In order to correct errors of computation, if any."

Mr. DAVIDSON. Yes; but he's speaking of the number of ballots.

(The chairman again reads it.)

The CHAIRMAN. I am under the impression that covers it, but if you think it doesn't, we can put that up to the attorney general.

Mr. DAVIDSON. I should say, put it up to him, because he says in there that if you can go into one thing you can go into all.

(Whereupon the following letter was dictated to the Attorney General:)

"Please submit an opinion on the following questions:

"1. Whether the canvassing board should retally the returns of a precinct in which it is alleged, in a protest filed with the board, that an error was made in computation.

"2. Whether the canvassing board should change the final count in case an error is discovered upon retally."

Mr. GARFIELD. I was going to say, in support of the statement I made a while ago, that I think this opinion of Mr. Justice Brewer's is directly in point.

Mr. DAVIDSON. Yes; but you can go and pick up a dozen others that say exactly the opposite.

Mr. GARFIELD. Well, the weight of authority is on that side.

Mr. DAVIDSON. No; it isn't, because you can find just as many on one side as on the other.

Mr. GARFIELD. I suppose it is based on the basic law.

Mr. DAVIDSON. You start looking in that up and you can come in here tomorrow with another one that is just as convincing as the other one.

The CHAIRMAN. Well, in regard to these precincts that have been protested for some alleged error, I think that the opinion of the Attorney General covers those, that we are to canvass and compile the returns. If we could go into the question of legality, the work would never be finished.

Mr. DAVIDSON. I'm surely with you there. Let's get through with this thing.

The CHAIRMAN. For instance, we have protests here from Mr. Rustgard, Mr. Marshall, and we have got some from Mr. Winn, Mr. Hellenthal. The protest—I know absolutely that Bethel wasn't established until after Sep-

tember 12. There were a number of voters there who wanted to vote and I brought it to the attention of the commissioner, not knowing the law on the subject.

Mr. DAVIDSON. I say go ahead and count them, because if we start in on that we never will be through.

Mr. GARFIELD. I don't think it is the intention—I don't think the law-making body intended that the canvassing board should go into this matter in the way in which we did. I was entirely in the dark in the matter, and I looked up the word "canvass" in the dictionary and I found that it meant to carefully scrutinize, investigate, etc., and I supposed that we had a right to go into the returns, but I was mistaken; I'm satisfied I was mistaken.

(Adjournment taken to 10 a. m., Monday morning, February 24, 1919.)

MONDAY, February 24, 1919.

The board met at 10 a. m., pursuant to adjournment.

The CHAIRMAN. I'll read this letter from the attorney general first:

JUNEAU, ALASKA, February 22, 1919.

HON. THOMAS RIGGS, Jr.,

*Governor and Chairman of Canvassing Board, Juneau, Alaska.*

SIR: I have your letter of February 20, 1919, submitting to me for my opinion the following questions:

1. Whether the canvassing board should retally the returns of a precinct in which it is alleged in a protest filed with the board that an error was made in computation.

2. Whether the canvassing board should change the final count in case an error is found upon retally.

In an opinion rendered the board under date of February 18, 1919, I advised you as follows:

"Although the duties of the canvassing officers are purely ministerial with respect to the matters hereinbefore discussed, they have, according to all the authorities, certain quasi-judicial powers and duties. They should examine all the returns, which include the certificate of final result, the register of voters, the ballots cast, and all affidavits made, in order to be satisfied of their genuineness; they should compare the number of ballots cast with those counted, as shown by the certificates, in order to correct errors of computation, if any."

The foregoing is an answer to both your questions. Where the certificate of result, tally sheets, and ballots are not in accord, all should be examined, the truth ascertained, and the error corrected. The matter of whether or not a protest is filed with the board, however, does not affect the situation or the duty of the board in the matter.

Referring to your second question, I advise you that it is the duty of the board to correct all errors in computation discovered at any time before their final action in issuing certificates of election.

Respectfully,

GEO. B. GRIGSBY, *Attorney General.*

The CHAIRMAN. That covers the question of Mr. Russell.

Returns of the following precincts were canvassed, in accordance with opinions of attorney general, with no change in result of first canvass except where noted under the precinct affected:

#### FIRST DIVISION.

##### BARANOF.

Mr. MARSHALL. I would like to have it noted in the record that I protest the counting of the votes of Harry Raymond and his wife, Selma Jackson, and J. R. O'Neill and his wife, on the ground that they are not residents of that precinct and live in Juneau.

CRAIG, PORT WALTER, HAINES, HYDER, WRANGELL, SCOW BAY, NIZINA, TANAKEE, SITKA, CHILKAT VALLEY, AND JUNEAU NO. 2.

(The board decided to reject two ballots counted in former canvass, one of which was for Wickersham and the other for Sulzer.)

TREADWELL, KAKE, LORING, MENDENHALL, HADLEY, BEAVER FALLS, JUALPA, KASAAN, DOLOMI, WINDHAM, KETCHIKAN, AND JUNEAU NO. 3.

Mr. MARSHALL. In Juneau No. 3 you made a change. The name was struck out on a ballot and the judges didn't count it and you did, giving Wickersham an additional one.

(The board decided not to count the vote.)

Mr. MARSHALL. On that I'd like to protest that it should be allowed; that is, giving Judge Wickersham one more as on the first tally.

JUNEAU NO. 1 AND CHARCOAL POINT.

Mr. MARSHALL. I'd like to have it noted that I protest the vote of Charles A. Sulzer at Charcoal Point.

SULZER, HOONAH, GOLD AND SALMON, AND SKAGWAY.

The CHAIRMAN. There was a question here of a ballot thrown out by the judges of election.

Mr. GARFIELD. Was that the Dawson business?

The CHAIRMAN. Yes. The attorney general held that we were to take the decision of the judges of election, I think.

Mr. DAVIDSON. Yes; well, then, that wouldn't make any change in it.

The CHAIRMAN. We can look that up in a second. [Looks up opinion of attorney general and reads:] "However, it seems that the vote was cast and the canvassing board has no power to reject it." [To Mr. Marshall:] Do you want to protest it?

Mr. MARSHALL. Well, I think I do; I think the vote ought to be counted, because the judges of election had no such power. When a man swears in his vote it should be counted. I don't know who it is for.

The ballot still remains sealed, does it, in the envelope with the election returns—

The CHAIRMAN. Yes.

Mr. MARSHALL (continuing). The ballot that was rejected.

CHICHAGOF.

The CHAIRMAN. There was something about Chichagof. There was one vote that was scratched—voted by scratching off one name of a candidate.

Mr. GARFIELD. Rejected on account of the name being scratched out.

The CHAIRMAN. Oh, yes; that's on the same basis that Judge Marshall protested against the rejection of the vote evidently for Wickersham.

Mr. MARSHALL. Yes.

The CHAIRMAN. So, on that same basis, that would apply to the counting of that vote?

Mr. MARSHALL. Yes; I want to make the protest apply to that.

SHEEP CREEK.

(Adjournment taken until 2 p. m.)

AFTERNOON SESSION.

The board met at 2 p. m., pursuant to adjournment.

PERSEVERANCE, DOUGLAS NO. 2, DOUGLAS NO. 1, TOKEEN, CHITINA, AND M'CARTHY.

(One ballot which had been rejected by the judges of election and counted in former canvass was now rejected, making one less for Wickersham.)

TALKEETNA, STRELNA, MATANUSKA, EYAK, GIRDWOOD, LATOUCHE, COPPER CENTER, SEWARD, KNIK, AND SELDOVIA.

The CHAIRMAN. Here is one refused to vote after registration.

(Recanvass results in loss of one for Connolly.)

## ELLAMAR.

The CHAIRMAN. One thrown out by the judges of election because it had two votes for senator.

Mr. MARSHALL. There was one ballot totally rejected because it voted for two for senator. That ballot should be counted, and I have got it here that Wickersham got it.

Mr. DAVIDSON. That's what it shows here—Wickersham got it.

Mr. MARSHALL. I'd like to protest the throwing out of that ballot, because it is practically tantamount to those cases where there was an error in computation. They have no right to discard the whole ballot because it voted for two for senator; they have no right to discard it for the rest of the ticket. I think that that should be clearly allowed.

Mr. DAVIDSON. That, it seems to me, is under the same ruling. We can't reverse the judges of election.

Mr. MARSHALL. I don't believe it's a discretionary matter. It isn't in any sense spoiled for the rest of the ticket by reason of the fact that they voted for two senators.

The CHAIRMAN. I don't believe we asked that question.

Mr. MARSHALL. You didn't ask that question specifically. I don't believe it; I don't remember. If you're going to hold strictly that you can't rescind the action of the judges of election, probably, of course, under that theory, you'd have to reject it; but I don't.

The CHAIRMAN. I think that is covered here [going over opinions].

Mr. DAVIDSON. He says if we can do one thing, if we can reverse them in one thing, we can reverse them on all things.

The CHAIRMAN. Yes; we'll have to let that stand there.

Mr. GARFIELD. I'm satisfied.

## ANCHORAGE, NO. 1, AND ANCHORAGE, NO. 2.

(Recanvass results in one less for Wickersham, for Ward, for Murray, for Neckleson, one for Ray, one for Small, one for Frame, and one for Wilson.)

CORDOVA, AFOGNAK, SUSITNA, CHICKALOON, JUMBO, FIDALGO, BIRD CREEK, VALDEZ BAY, BONANZA, HOPE, MOOSE PASS, KATALLA, KUSKALANA, KENNECOTT, KUSKALANA NO. 2, MOOSE CREEK, QUIZINKIE, AND VALDEZ.

The CHAIRMAN. I think there's one that they counted that had two marks on; I mean thrown out one that was erased. Well, we'll have to follow the judges of election on that.

## ILIAMNA, NINILCHIC, KENAI, AND PALMER.

Mr. MARSHALL. For the sake of the record, I want to protest the rejection of that ballot voted for Wickersham, but rejected because it voted for five representatives.

## SOURDOUGH, CACHE CREEK, AND M'DOUGALL.

Mr. GARFIELD. One election register and tally book, oaths of judges properly executed; certificate of registration not signed; certificate of judges of election to returns properly signed.

The CHAIRMAN. I want to read this telegram from Donohoe:

VALDEZ, February 23, 1919.

Gov. Riggs, Juneau:

Bristol Bay vote, Naknek precinct, Sulzer 10, Wickersham nothing; Coglung (Koggiung), Sulzer 16, Wick 7. No election Nushagak precinct. Patterson plurality over Murray not less than 11, possibly 23 returns not reach Juneau until arrival *Farragut*. Third division legislators, including Patterson, on *Alameda*. Can you arrange issue certificate?

DONOHOE.

I don't think we can arrange to issue certificates until we've got something definite to go on. Now, the question comes up of the legislators of the second division, for whom we won't have all the returns in. What do you think as to the best procedure? I think we should figure up to-morrow some time what precincts we've got in and then wire for the certificate of the clerk of the court

and put that before the legislature and give them the benefit of what information we have and let them seat them or hold them out.

Mr. DAVIDSON. Well, that's my idea, excepting that we take that and give those that we have a certificate for from the clerk of the court and issue them a certificate so that they can get into the House.

Mr. GARFIELD. Conditionally, so far as the returns show.

The CHAIRMAN. Give them what information we have.

Mr. DAVIDSON. Let them get into the House and fight it out there. There probably will be no contest. It wouldn't be right for us to hold out to shut out a whole division from having representation if we can possibly help it; and the House has absolute charge of their Members and can reverse it, if it wants to.

(Adjournment taken until 10 a. m., February 25, 1919.)

#### KODIAK.

The CHAIRMAN. One certificate missing here.

(Ballots recounted.)

The CHAIRMAN. I've got 48 ballots here. How is it voted for the head of the ticket?

Mr. GARFIELD. Forty-eight.

The CHAIRMAN. There is one that evidently should be discarded. Now, I wonder who that is counted for.

Mr. GARFIELD. Probably counted for both of them, gave each one.

The CHAIRMAN. No; then there'd be 49; there's no blanks.

Mr. GARFIELD. Well, you see Connolly has only got one vote. You can look through and see the others.

The CHAIRMAN. Now, we'll have to see who that's voted for.

Mr. GARFIELD. It is evidently counted for Wickersham. It wouldn't be for Sulzer.

The CHAIRMAN. How many votes does that certify to as being cast?

Mr. DAVIDSON. Forty-eight.

Mr. GARFIELD. Forty-eight; yes. And there's 48 for the head of the ticket.

The CHAIRMAN. I don't think you can count that possibly.

Mr. GARFIELD. I think it comes within the purview of manifest error.

The CHAIRMAN. Manifest error, yes.

Mr. GARFIELD. What is the decision?

The CHAIRMAN. There was no direct opinion except that the board should see that all the votes, all the ballots were properly counted. That's not properly counted. You can't add one for Connolly and one for Wickersham there.

Mr. GARFIELD. It shows the stroke of the pen there.

Mr. MARSHALL. Could that blot anything else, Governor?

The CHAIRMAN. Yes; blots, but doesn't make the same kind of cross and it shows the effect of a little cross on Galen, but it is not the same kind of cross as Galen's got.

Mr. MARSHALL. He votes a straight Republican ticket otherwise.

The CHAIRMAN. I didn't notice.

Mr. MARSHALL. I think that may have influenced the judges in arriving at their determination or conclusion that that was a blot.

Mr. DAVIDSON. By golly, I believe it's a blot, too. Wickersham's looks like it might be a blot, but the other one don't.

The CHAIRMAN. Well, Wickersham, that is an evident blot down there, because it comes down there [indicating]. That tallies with Wickersham's blot. That doesn't mean anything. There is an undoubted cross there for Wickersham.

You [addressing Garfield] delicate-fingered man, see if you can feel the scratch of the pen on that top one [handling ballot in question to Mr. Garfield].

Mr. GARFIELD (after examination). It isn't as distinguishable as the lower one.

The CHAIRMAN. Well, it may possibly be a blot.

Mr. GARFIELD. The lower one is easily distinguishable.

The CHAIRMAN. You take it and look through a glass here and I'm inclined to think that it is a blot.

There is an element of doubt in that cross which the judges of election may have taken into account.



Mr. DAVIDSON. They surely wouldn't have counted it for two unless——

The CHAIRMAN (interrupting). Where there is an element of doubt, I think we better describe the ballot fully in the record and accept the——

Mr. DAVIDSON (after examining ballot). By golly, that's a blot.

The CHAIRMAN (continuing). And accept the decision of the judges. What do you think, Mr. Garfield?

Mr. GARFIELD. That is satisfactory to me.

Mr. DAVIDSON. That's a blot. I didn't think it looked like a blot at first, but it's smooth. You can't see any lines of the pen.

The CHAIRMAN. If you'll take that and fold it and put it against the glass and shift it just a little bit you'll see that the lines very closely coincide.

Mr. DAVIDSON. May not have been folded exactly.

Mr. GARFIELD (after examining ballot). It's a blot alright.

The CHAIRMAN. Description of ballot: One ballot, counted by the judges of election, with a cross in the square to the left of the names of both Connolly and Wickersham. The ballot has been voted for Wickersham. The cross in the square opposite the name of Connolly may very possibly have been made by transfer when the ballot was folded from the cross in the square opposite the name of Galen. There is an element of doubt in this ballot, but it is the opinion of the canvassing board, that the cross opposite the name of Connolly is a transfer blot. All the crosses are made in ink.

Mr. DAVIDSON. One election register and tally, with oaths of judges properly signed and certified; certificate of registration is missing and the certificate of the judges to election returns properly certified. One registration book, properly certified by the judges.

ROOSEVELT.

The CHAIRMAN. Certificate not filled in.

Mr. GARFIELD. One election register and tally book, oaths of judges properly signed and executed; certificate of register not filled in or signed; certificate of election returns properly signed by the judges; no registration book.

(Returns retallied.)

WASSILA.

The CHAIRMAN. There was something wrong with that.

Mr. GARFIELD. One election register and tally book, oaths of judges signed and executed; registration certificate properly filled out and signed. Certificate of election returns properly signed by the judges.

The CHAIRMAN. There was one ballot rejected for scratching out the names of Connolly and Wickersham. Evidently intended to vote for Sulzer. That's the one rejected.

Mr. GARFIELD. I notice one too, here, with the cross on the right instead of the left.

The CHAIRMAN. But that's the only one rejected.

Mr. GARFIELD. Yes.

The CHAIRMAN. This is similar to the one that Judge Marshall protested, only in that case it showed the intent of the voter for Wickersham.

CHISANA.

(Returns retallied.)

ESKA.

The CHAIRMAN. There is a question in that, too. One ballot rejected, which had the names of Connolly and Wickersham scratched out, leaving an intent of the voter for Sulzer, similar to the one protested by Judge Marshall, in favor of Wickersham.

Mr. MARSHALL. I don't mean how it is marked, but is there anything to show why it was rejected?

The CHAIRMAN. Well, we made a count and found that it had been rejected.

Mr. MARSHALL. Oh, you did?

The CHAIRMAN. Yes.

UNALASKA.

The CHAIRMAN. Official ballots not received, but certified by the judges of election, why they had to use unofficial ones.

(Returns retallied.)

UNGA.

(Returns retallied.)

SANAK.

The CHAIRMAN. Unofficial ballots, with proper certificate of judges of election of facts preventing the use of official ballots.  
(Returns retalled.)

WILLOW CREEK.

(Returns retalled.)

GRANITE.

The CHAIRMAN. One man failed to sign the jurat of judges.

Mr. GARFIELD. One registration book, properly certified by the judges; one election register and tally book; oaths of judges, properly executed; certificate of register and election returns, both properly signed and executed by the judges.

(Returns retalled.)

CHICNIK.

The CHAIRMAN. Unofficial ballots, with certificate of judges, explaining reason for nonuse of official ballots.

(Returns tallied.)

FOURTH DIVISION.

WOODCHOPPER AND LONG.

(Returns retalled.)

HOT SPRINGS.

The CHAIRMAN. One ballot was thrown out, voted for both Sulzer and Wickersham; thrown out by the judges of election.

(Returns retalled.)

TANANA, RUBY, CLEARY, COLDSTREAM, CIRCLE, RAMPART, DOME, EUREKA, MOOSE CREEK, AND TOFTY.

(Returns retalled.)

The CHAIRMAN. One ballot rejected here on account of the voter signing his name on the ballot marked for Sulzer. It wasn't counted.

FORT GIBBON.

(Returns retalled.)

The CHAIRMAN. Ballot cast by a voter for Wickersham rejected by the judges of election, but counted by the canvassing board.

Mr. MARSHALL. Because it was marked on the right-hand side?

The CHAIRMAN. Because it was marked on the right-hand side; yes.

CHICKEN, FRANKLIN, AND LOWER CLEARY.

(Returns retalled.)

The CHAIRMAN. In this connection, in the duplicate election and tally book shows only 32 names and 34 votes cast. We wired in to the clerk of the court and found out that they had left off two names in the election register in copying from the registration book and they gave us the last five names, so we checked up and found that it was correct.

ANIAK, FLAT, ESTER, KANTISHNA, MILLER HOUSE, FAIRBANKS CREEK, EAGLE, DEADWOOD, RICHARDSON, SALCHAKET, COLDFOOT, AND FAIRBANKS.

(Returns retalled.)

The CHAIRMAN. There was a question as to rejected ballots here. For instance, there were three votes that we thought were intended for Sulzer that the judges of election had thrown out and we were awaiting the decision of the Attorney General. There are four votes evidently intended to be votes for Sulzer thrown out by the election judges for defects.

Mr. GARFIELD. One duplicate election register and tally book, oaths of judges properly signed and executed, certificate of registration and returns properly signed and executed by the judges.

The CHAIRMAN. We have counted the ballots and find that they checked up, agreed with the number.

LITTLE ELDORADO.

(Returns retalled.)

The CHAIRMAN. Everything is all proper, except the first oath of judges had been signed but not sworn to. I suppose we'll have to tally that to make it check.

AFTERNOON SESSION.

The board met at 2 p. m., pursuant to adjournment.

LOUDEN.

(Returns retallied.)

The CHAIRMAN. Here is a case where there is no date on the jurat.

Mr. DAVIDSON. Certificate of registration is missing.

The CHAIRMAN. And the names of the voters are not in the registration book.

Mr. DAVIDSON. But they are in the other book.

The CHAIRMAN. I mean they are in the registration book, but not in the election register.

THIRTY-FIVE MILE, IDITAROD, AND DISCOVERY.

(Returns retallied.)

WISEMAN.

(No ballots.)

The CHAIRMAN. Well, I wonder if they're in another envelope somewhere. We got a wire saying they had been mailed. I believe there's another envelope. We got a wire saying they had been sent on such and such a date.

(Ballots not found.)

(Certificate of clerk of court checked with returns.)

GREENSTONE, FORT YUKON, NULATO, AND GILMORE.

(Returns retallied.)

The CHAIRMAN. Certificate of election register left out.

GRAEHL AND BROOKS.

(Returns retallied.)

The CHAIRMAN. There are ballots thrown out here, evidently for being marked on the right-hand side; the one at the head of the ticket is for Connolly and two for Wickersham.

Mr. GARFIELD. They give Sulzer 64 and we give him 63; they give Wickersham 58 and we give him 59.

The CHAIRMAN. I think we ought to check just the head of this ticket through to see if, in calling out, we have made an error.

(Recheck made.)

The CHAIRMAN. They have counted this one [showing] for Wickersham; didn't count any of those with the crosses on the right-hand side. Evidently the judges of election counted the one for Wickersham wherein the cross appeared below the name.

GEORGETOWN AND M'GRATH.

(Retallied.)

The CHAIRMAN. Here's a ballot rejected by the judges of election, in which the names of Connolly and Wickersham are scratched out, showing the evident intent of the voter to vote for Sulzer.

BETILES AND POWER PLANT.

(Retallied.)

SPRUCE.

(Tallied.)

Mr. GARFIELD. One duplicate election register and tally book, oath of judges properly signed and executed; certificate of registration not filled out or signed; certificate to election returns properly signed by judges. Votes not tallied.

Manifest error in the tally on tally book; A. M. Kilgore shown by election board as having received three votes, whereas retally of votes by canvassing board shows four.

OPHIR AND HENANA.

(Tallied.)

Mr. GARFIELD. One duplicate election register and tally book and oath of judges properly signed and executed; certificate of registration and election returns properly executed, signed by the judges; one challenge oath of Mrs. Dora Campbell, formerly residing at Woodchopper; one challenge oath of Jaras Alan, claiming right to vote, formerly residing Tolovana precinct.

(Count and recount made before check is reached.)

The CHAIRMAN. Description of rejected ballots: One ballot marked for Wickersham, in square, discarded, for the reason, evidently for the reason that the

cross appears after the name of Sheldon on the right-hand side; ballot for Sulzer rejected, the cross being on the right-hand side of the name; ballot for Sulzer rejected for the reason that there are five votes for representatives; ballot for Sulzer rejected because a cross appears on the right-hand side of the name, in the column headed "party nomination;" also one mark opposite Wickersham's name; one marked with a cross opposite Wickersham's name rejected, evidently because the mark had originally been placed in square opposite Sulzer and erased; one marked for Wickersham rejected, the cross being on the right-hand side; ballot for Wickersham rejected, cross being on the right-hand side, in column headed "party nomination;" ballot marked for Connolly and Sulzer; the mark opposite Sulzer appears possibly to have been crossed out—after Connolly appears to have been crossed out.

(Wickersham lost 5 and Sulzer 4.)

## TACOTNA.

(Tallied.)

WEDNESDAY, FEBRUARY 26, 1919.

The board met at 10 a m., pursuant to adjournment.

## SECOND DIVISION.

## UTICA.

(Retallied.)

## KIANA.

(Tallied.)

The CHAIRMAN. Marred ballot, evidently not voted; stub not detached.

Mr. DAVIDSON. One duplicate general election register and tally book, with all certificates properly signed and certified.

Mr. GARFIELD. One certificate of selection of judges, where original appointees fail to appear and qualify; one registration book signed and certified by the judges.

## ST. MICHAEL.

(Retallied.)

Mr. RUSTGARD. I think I'll ask you to retally the head of the ticket, if it isn't too much trouble.

(Retally made.)

## HAYCOCK AND COUNCIL.

(Retallied.)

## BETHEL.

(Tallied.)

Mr. GARFIELD. One duplicate general election register and tally book; oaths of judges signed and executed; certificate of registration not filled out or signed; certificate of results properly signed by judges.

## CHINIK.

(Retallied.)

## BLUIF AND CANDLE.

(Tallied.)

The CHAIRMAN. There was one change here; there was no cross on the ballot, but it was written in. We considered that it might possibly be counted. Let's see that ballot. [Ballot found. After examination:] Evidently rejected by the judges of election.

Mr. RUSTGARD. The cross is through the word "Republican."

Mr. GARFIELD. Fifty-nine for the head of the ticket.

The CHAIRMAN. Fifty-nine and two blanks and one rejected. That makes 63—62. How many registered?

Mr. GARFIELD. Sixty-three.

The CHAIRMAN (after counting). Sixty-three. And you say there's only 59 for the head of the ticket?

Mr. DAVIDSON. Fifty-nine; yes.

The CHAIRMAN. Well, there's an error in counting somewhere.

Mr. MARSHALL. Governor, I think the natural inference is that there is a mistake in the count rather than in this ballot rejected; because if this ballot was rejected, they would so mark it. I don't think it's a necessary inference that this ballot is rejected, because there isn't anything to indicate that it was rejected.

The CHAIRMAN. Is there anything to show that there was any ballots rejected?

Mr. DAVIDSON. Nothing to show here that it was rejected.

The CHAIRMAN. Nor in the registration of voters how many voted?

Mr. DAVIDSON. Sixty-three.

The CHAIRMAN. They're all marked voted?

Mr. DAVIDSON. Yes; all marked voted.

The CHAIRMAN. Well, I see nothing to show that that was rejected, and even if it was a blank, even if it had been rejected, it wouldn't tally up with the head of the ticket.

Mr. DAVIDSON. I think we better make a new tally of the head of the ticket.

Mr. GARFIELD. I think that that is the only way to arrive at it.

Mr. MARSHALL. That would be 61, because there are only 2 that have not voted; there ought to be 61 for the head of the ticket.

The CHAIRMAN. Let's count the head of the ticket, Mr. Garfield.

(Recount made.)

Mr. GARFIELD. There's Sulzer's—15 and 4, 19; 39 for Wickersham; blank 1 and Connolly 1.

Mr. MARSHALL. I counted 40 for Wickersham.

Mr. GARFIELD. Thirty-nine. How many blanks.

The CHAIRMAN. Four not counted there.

Mr. GARFIELD. That makes a total of 63.

The CHAIRMAN. Then the only question is whether this ballot here was properly countable or not, or whether it had been rejected by the judges of election.

Mr. GARFIELD. Well, they report 39 votes for Wickersham and we have 39 votes outside of that, so the judges rejected it.

Mr. MARSHALL. But that is merely an inference. It is just as strong an inference that they made a mistake in the tally.

The CHAIRMAN. Well, the only way to check that up is to check up some of the other. The only way would be to tally up the rest of the ticket.

Mr. GARFIELD. Well, it wouldn't be necessary to tally the whole ticket. Tally it for senator, for instance. I'm satisfied that they have rejected that ballot.

Mr. DAVIDSON. You see, senator is all you need to tally to tell what they did.

Mr. MARSHALL. Well, here's the idea. Don't you think it is essential for them to state that the ballot was rejected, if they did reject it? If they didn't it doesn't make any difference what they tallied otherwise. It might be a mistake in calculation.

The CHAIRMAN. Well, it will show very readily. We'll take senator. If that checks up; if it checks up, including this ballot, why then——

Mr. MARSHALL. That will raise the inference that they rejected the ballot, but I don't think that they can reject the ballot by simply ignoring it. They have got to mark on it "rejected."

The CHAIRMAN. There's nothing in the law providing that.

Mr. MARSHALL. No; there's nothing in the law providing that.

The CHAIRMAN. So really it's up to the election judges.

Mr. MARSHALL. It is not incumbent upon them.

The CHAIRMAN. If we're to take the ruling of the judges of election, why we've got to find out whether that ballot was rejected by the judges.

Mr. MARSHALL. Of course. It would seem that, by checking up the Senator, it would be a check on it and show whether or not they intentionally eliminated the ballot. It would be considered a tendency that they did, but it wouldn't be absolutely conclusive.

The CHAIRMAN. Well, if we had the Senator, and, say, the road commissioner, or retalled the whole thing——

Mr. MARSHALL. I don't believe you can get it absolutely conclusive. Of course, the inference is very strong.

The CHAIRMAN. We could find out if that ballot was counted or not. This is marked in four places. If we found out that it checked exactly without those four——

Mr. MARSHALL (interrupting). In order to carry your proof to an absolutely logical conclusion, you'd have to look through and see whether there was any other ballot voted for the same one, because it might possibly be that they passed up the ballot. I mean the doubt is still open to possibly different conclusions from the thing. You can so fix it as to make it absolutely conclusive.

The CHAIRMAN. Unless by wiring the judges of election.



Mr. MARSHALL. Yes, I don't know whether that would be—that might be satisfactory evidence of the fact. Of course, I don't suppose, as a matter of fact, that they would remember an incident of that sort.

The CHAIRMAN. I think they would. In small precincts like that they'll probably remember every detail very readily.

Mr. GARFIELD. I move you that it is the consensus of the canvassing board that it was the intention of the judges to eliminate that ballot.

The CHAIRMAN. I think it was myself, Mr. Garfield, but for the satisfaction of the representatives of Judge Wickersham. I think we better count the candidates whose marks appear on these rejected ballots to see if they tally up with the count of the judges of election.

Mr. GARFIELD. Well, if that's going to prove anything. It's not going to prove anything.

The CHAIRMAN. It will prove it.

Mr. MARSHALL. It wouldn't prove it conclusively, Governor, as I say, if there are other ballots that voted for the same man and the same man alone.

The CHAIRMAN. Well, I'm quite confident there wouldn't be.

Mr. DAVIDSON. I think it would be pretty good evidence.

Mr. MARSHALL. The only thing, I think the ballot can't be excluded because I think the stronger presumption is that the ballot was unintentionally counted.

The CHAIRMAN. Well, we'll assume that the count of the judges of election is right and that this ballot has been excluded?

Mr. GARFIELD. Yes—certificate to the returns of the judges that the tally is correct and that the vote has been excluded.

The CHAIRMAN. There is no use of our fooling around with this.

Mr. MARSHALL. The same question is going to be raised and it's no use to take up a lot of time.

#### DILLOW CREEK AND KOTZEBUE.

(Retallied.)

The CHAIRMAN. One ballot not counted for representatives, as far as the representatives went, on account of there being five representatives voted for.

#### FORTUNA LEDGE.

(Retallied.)

The CHAIRMAN. Only one challenge oath sworn in.

#### UNALAKLEET AND DEERING.

(Retallied.)

(No more election returns on hand.)

The CHAIRMAN. Shall we issue certificates of election to those that we can?

Mr. DAVIDSON. I move, Mr. Chairman, that we ask Mr. Grigsby to prepare the certificates for the different divisions, as far as the legislature is concerned.

The CHAIRMAN. Well, isn't that the duty of the canvassing board?

Mr. DAVIDSON. I guess it is, but maybe we won't give the proper certificate. We've got an attorney general; let him do it.

The CHAIRMAN. Well, I believe the certificates last time were given in proper shape or form.

Mr. DAVIDSON. Have you any of those?

The CHAIRMAN. Yes; we have copies of those.

(Finally decided to issue certificates to those for whom returns had been received, first and fourth divisions).

(Following telegram was sent to the clerk of the court at Nome:)

Have returns from following precincts: Kiana, Utica, St. Michael, Haycock, Council, Bethel, Chinik, Bluff, Candle, Willow Creek, Kotzebue, Deering, Unalakleet, and Fortuna Ledge. To be able to seat legislators, wire totals of returns legislative ticket and road commission for all missing precincts.

Riggs, Governor.

(The board adjourned subject to call of chairman.)

THURSDAY, FEBRUARY 27, 1919.

The board was convened upon call of chairman.

Mr. DAVIDSON. In view of the fact that the first and fourth divisions have all been canvassed and tallied, I move you that we now issue certificates—

Mr. GARFIELD (interrupting). You mean the returns, don't you, Charlie?

Mr. DAVIDSON (continuing). Yes; that we now issue certificates to all the assemblymen, senators, and road commissioners receiving the highest number of votes.

The CHAIRMAN. In those divisions?

Mr. DAVIDSON. In those divisions.

Mr. GARFIELD. I second the motion.

The CHAIRMAN. It is so ordered. We'll then issue certificates of election of Mr. E. B. Collins, of Fox, as representative.

Mr. GARFIELD. From the fourth?

The CHAIRMAN. From the fourth; Mr. J. W. Dunn, of Ruby, as representative from the fourth; Mr. A. J. Nordale, of Fairbanks, representative from the fourth; Mr. G. W. Pennington, of Nenana, as representative from the fourth; Mr. Luther C. Hess, of Fairbanks, as senator from the fourth. In the first division we'll issue certificates of election to Mr. William Britt as senator; Mr. J. H. Davies, of Ketchikan, as representative; Mr. Isaac Sowerby, of Juneau, as representative; Mr. W. W. Casey as representative, of Juneau; and Mr. E. J. White, of Douglas, as representative.

In relation to the third division, we have returns from all the precincts with the exception of two, namely, Koggiung and Naknek, in which precincts, in the election of 1916, there were approximately 50 votes, I believe. Perhaps it might be in order for a motion to be made to issue certificates of election to the legislature from the third division, among whom there is not a difference of less than 50 votes, and issue—if there should be a difference of less than 50 votes, we can reserve issuing certificates until such times as we receive the official advices. Does that meet with your approval, General?

Mr. DAVIDSON. Yes; unless he decides we can take the certified copy of the wire—unless they have it out there.

The CHAIRMAN. We haven't got those yet. We haven't got any official wire from the clerk of the court.

Mr. DAVIDSON. That's what I understand, but I was wondering if the clerk of the court didn't have it by this time.

The CHAIRMAN. Well, I wired yesterday.

Mr. DAVIDSON. I don't think those are totaled up so far, Governor, so we can't tell anyway.

The CHAIRMAN. I think if we get the clerks to total them up it would be a very simple matter to add the missing precincts as soon as we get them.

Mr. DAVIDSON. Yes; it would.

The CHAIRMAN. And perhaps by the time we meet to-morrow morning we'll have wires. Is there anything else before the board to-day?

Mr. DAVIDSON. Not that I know of; only to sign these up.

The CHAIRMAN. Have you anything, Mr. Hellenthal?

Mr. S. HELLENTHAL. No; I haven't. I'll have a protest to file against the counting of the precinct of Bethel on the ground that not sufficient time was given—not sufficient notice was given of the establishment of the precinct.

Mr. GARFIELD. The notice of election wasn't sufficient, either, was it?

Mr. HELLENTHAL. Notice of election and the establishment of the precinct.

The CHAIRMAN. Well, I think we can make that a part of the record along with the other protests, when it is submitted by Mr. Hellenthal. We'll meet to-morrow morning.

FRIDAY, FEBRUARY 28, 1919.

Mr. GARFIELD. Mr. Chairman, I do now move that we proceed to issue certificates to the following-named parties, which, in accordance with the election returns before us, are duly elected to the several positions.

Mr. DAVIDSON. I second that motion.

The CHAIRMAN. Motion is carried. I think we might put in here that in the second division we have returns from all precincts except—

Mr. GARFIELD (interrupting). Or maybe we had better qualify that.

The CHAIRMAN. You don't have to qualify your motion. We can put it in the record what we have done.

Mr. GARFIELD. Well, I thought it better appear in the motion.

The CHAIRMAN. I don't think it's necessary.

Mr. GRIGSBY. No; I'd just make a motion that the certificate of election be issued to the following-named persons, candidates for the legislature.

The CHAIRMAN. And road commissioner.

Mr. GRIGSBY (continuing). Second and third divisions.

Mr. GARFIELD. The road commissioner is in there, too.

Mr. GRIGSBY. Yes; in the third, road commissioner. You can specify them all except Patterson and then name the persons.

Mr. GARFIELD. Instead of having it qualified, in accordance with the returns, that we do move that the Board do now issue certificates of election to the following-named candidates.

Mr. CHAIRMAN. Senate, the house of representatives, and road commissioners, from the second and third divisions.

Mr. DAVIDSON. I second that.

Mr. CHAIRMAN. Motion's carried.

These certificates are issued, in the case of the second division, from the returns which are in the hands of the canvassing board, with the exception of the following precincts: Nome, Cape Nome, Solomon, Taylor, and Teller, returns from these precincts having been held up by the nonmovement of mails, due to quarantine measures. The clerk of the court of the second division was requested to wire in the total votes cast for the various candidates in these precincts, which show that the candidates to whom certificates were issued were undoubtedly elected. At the present, no certificate is issued to the road commissioner, as the election is very close and there is no immediate necessity for determining who has been elected. In the third division there are outstanding only two precincts, the returns from which are in the mails and should be in the hands of the board very shortly. These returns will in no possible way affect any of the candidates, with the exception of the contest between Murray and Patterson; the official and unofficial returns of which show the contest to be very close. It is the opinion of the canvassing board that no unqualified certificate should at present be issued to either of the candidates until official notice is received from either the clerk of the court or the returns are received from the missing precincts.

The board is in receipt of a protest from the attorneys for Mr. Charles A. Sulzer, Messrs. Hellenthal and Winn, against counting the votes from the precinct of Bethel, as follows:

JUNEAU, ALASKA, February 28, 1919.

*To the Hon. Thomas R. Riggs, Charles E. Davidson, and Charles Garfield, sitting as a canvassing board to canvass the returns of the general election held within Alaska on the 5th day of November, 1918.*

GENTLEMEN: Comes now Charles A. Sulzer and respectfully protests against the counting of the votes from the precinct of Bethel, on the ground that said precinct was not established as by law required and that the notice of election required by law was not given, said precinct having been established but a few days prior to the election and the notice of election was not given for the length of time required by law.

Respectfully submitted.

J. R. WINN,  
HELLENTHAL & HELLENTHAL,  
Attorneys for Charles A. Sulzer.

(The following reply was received in answer to a telegram sent re precincts from which no returns had been received, and the results of vote in each:)

NOME, ALASKA, February 26, 1919.

THOMAS RIGGS, Governor, Juneau:

Missing precincts, according your wire, are Nome, Cape Nome, Solomon, Taylor, and Teller. Totals of returns for same follow: Coombs, 167; Frawley, 198; Allan, 216; Bogan, 201; Daly, 217; Downing, 143; Eddy, 159; McIntosh, 89; Milot, 121; O'Connor, 81; Rydeen, 101; Gibney, 182; Plein, 14; Wilson, 162; Winkler, 10.

MCGANN, Clerk.

(Adjournment taken.)

MONDAY, MARCH 3, 1919.

The board met upon call of the chairman. Absent: Mr. Garfield.

The CHAIRMAN. In view of the following telegram received from Deputy Marshall Armstrong, at Kodiak, it was decided to issue certificate of election to James A. Patterson, of Valdez, representative, from the Third judicial division. This action was taken particularly in view of the fact that it seems that the returns from the Bristol Bay precincts can not be received before the middle of March, and it is the desire of the board to expedite the actions of the legislature:

KODIAK, ALASKA, March 1, 1919.

Gov. RIGGS, Juneau:

Naknek, 10 votes cast, all straight Democratic; no election Nushagak; Dillingham, 23 votes cast, Sulzer, 16; Wick, 7; Patterson 11; Murray not sure; as

I remember 5. Was not many as I did not take number. *Farragut* leaving Kodiak morning has been heavy gale; has election returns Bristol Bay. Goes from here Seldovia, from there direct Ketchikan, where mail all points west of there will be discharged; catch next westbound boat; takes no passengers out of here.

ARMSTRONG.

(Indefinite adjournment taken, subject to call of chairman.)

NOTE.—It seems that the judges of election have rejected 15 votes which might have been intended for Wickersham, and 14 votes which might have been intended for Sulzer.

WEDNESDAY, MARCH 19, 1919.

The board met upon call of chairman.

The CHAIRMAN. I have two letters here [reads]:

JUNEAU, ALASKA, March 3, 1919.

*The Territorial Canvassing Board, Juneau, Alaska.*

GENTLEMEN: On behalf of Hon. James Wickersham, we protest the canvass and count of the returns from the following precincts, for the general election held on November 5, 1918, until such time as there shall have been filed in the office of the governor of Alaska a certified copy of the order and notice of election creating such precincts, as provided by law, to wit:

In the first division: Baranof, Beaver Falls, Charcoal Point, Chichagof, Craig, Loring, Sitka, Sulzer, Tenakee, Hyder, Port Walter, and Token.

In the second division: Bluff and Fortuna Ledge.

In the third division: Chisana, Chogglung, Illamna.

In the fourth division: Eagle, Ester, Gilmore, Kantishna, Little Eldorado, Cleary, Dome, and Nulato.

Respectfully submitted.

JOHN RUSTGARD,

JOHN B. MARSHALL,

*Attorneys for James Wickersham.*

These are in addition to the ones you have already filed a protest on?

MR. MARSHALL. Yes; I haven't filed a protest on that subject before. They're precincts where there is no order appearing, and I just thought the order ought to be present before final action is taken by the board.

THE CHAIRMAN. You consider that where it says in the compiled laws that a precinct remains permanent after once being established does not apply unless it is reposted every time?

MR. MARSHALL. Well, no; I don't take that position; but then there are precincts in some of those that were never previously created, I think.

THE CHAIRMAN. Well, now, for instance, Bluff and Fortuna Ledge have always been precincts, and Beaver Falls, Charcoal Point, Chichagof, Craig, Loring, Sitka, Sulzer, Tanakee, Hyder, Port Walter, and Token also.

MR. MARSHALL. I think that at each election there has been an order establishing polling places, and the law provides that a certified copy of that shall be sent to the Governor, so that the canvassing board may know that there are election precincts at these places.

THE CHAIRMAN. You consider that that is a part of the returns, then?

MR. MARSHALL. No; not a part of the returns, but an essential part of the information to enable the board to canvass the returns. I don't know that it is vital; I don't mean that absolutely, but it is fairly required. I don't think it would be fatal to the election, but I would like to see those orders to see whether they are in proper shape, and I think they ought to be filed here, and I think the law requires it.

The CHAIRMAN (reading):

JUNEAU, ALASKA, March 3, 1919.

*The Territorial canvassing board, Juneau, Alaska.*

GENTLEMEN: On behalf of Hon. James Wickersham we protest the canvass of the election returns for the election for Delegate to Congress from Alaska held on November 5, 1918, from the precinct of Unalaska, in the third judicial division of Alaska, on the following grounds, to wit:

It appears from the record that the official ballots were not received at said precinct, whereupon the judges of election proceeded to prepare ballots for the voters, in the execution of which purpose they prepared certain specified quantities of "Republican," "Democratic," and "Socialist" ballots, as shown both by the used and unused ballots accompanying the election returns.

The record conclusively shows that those ballots were retained in the possession of the judges of election and given out to the voters upon their demands for a "Republican," "Democratic," or "Socialist" ballot, thereby revealing the candidate for whom each elector voted and preventing the secrecy contemplated by the law requiring said election to be determined by ballot.

Respectfully submitted.

JOHN RUSTGARD,  
JOHN B. MARSHALL,  
*Attorneys for James Wickersham.*

Got any comment to make on those, General, or Mr. Garfield?

Mr. DAVIDSON. No.

Mr. GARFIELD. No.

The CHAIRMAN. Have you got anything, Mr. Hellenenthal?

Mr. HELLENTHAL. I haven't anything in particular; no.

CHOGIUNG.

The CHAIRMAN. Election register and tally book, Chogiung voting precinct, in the Bristol Bay recording district, oaths of judges of election properly signed and sworn to, certificate of election register properly filled out and signed, certificate of judges of election to election returns properly signed, certificates of the judges of election stating facts preventing the use of official ballots, properly signed.

Mr. DAVIDSON. Now, isn't that strange that these fellows didn't get the ballots and they got the books? That's a funny proposition; I don't understand that. It was the same way last year.

Mr. HELLENTHAL. Are these ballots all the same?

Mr. GARFIELD. No; they're not all the same. The skeleton is the same.

Mr. HELLENTHAL. They didn't put any names on the ballots at all until the voter appeared.

Mr. MARSHALL. Party ballot.

Mr. HELLENTHAL. No; the body of them is all the same.

Mr. DAVIDSON. Well, I can't understand why they can't get ballots out in that country. They get all the rest. They seem to throw them away.

The CHAIRMAN. Seems that they don't ship them out at the same time.

Mr. GARFIELD. They didn't have numbers to tear off like they did at Unalaska.

The CHAIRMAN. No.

Mr. DAVIDSON. I thought I saw one in there that wasn't marked; wasn't marked at all in the square.

(Ballots counted by the chairman.)

Mr. CHAIRMAN (after count.) Twenty-four votes.

Mr. DAVIDSON. Twenty-three for the head of the ticket.

Mr. GARFIELD. Maybe one didn't vote for the head of the ticket.

The CHAIRMAN. One ballot evidently intended to be voted for Sulzer not counted by the judges of election. Did you tally this, General?

Mr. DAVIDSON. No; I didn't.

Mr. HELLENTHAL. Now, is this the time you enter protests or objections, Governor?

The CHAIRMAN. Yes.

Mr. HELLENTHAL. I wish to enter a protest on account of Mr. Sulzer, because it clearly appears that there was one unofficial ballot which was cast, for the reason that the official ballot was not received, as clearly set forth in the certificate of the judges, which was cast for Charles A. Sulzer, although not marked in the square. It is our contention that that ballot should have been counted for Mr. Sulzer, as the mark in the square does not apply to unofficial ballots, but applies only to official ballots.

The CHAIRMAN. Protest will be entered in the record.

Mr. MARSHALL. Governor, I wanted to—I would like to look at the register again, the names again, if I may. [Looks over register.]

NAKNEK.

Mr. MARSHALL (after examining ballots). This is the primary ballot; that was the ballot of the primary election. They didn't have that the previous year, because there was no primary election; they might have had sample ballots or party workers' ballots.

Mr. DAVIDSON. Party workers' ballots is what they voted on before.



The CHAIRMAN. One certificate of judges of election of facts preventing the use of official ballots.

Mr. DAVIDSON. One election register and tally book, properly certified.

Mr. MARSHALL. I would like to protest the canvassing of those votes for the reason that it appears the judges of election did not make the ballots to contain the list of the candidates as provided by law, but used the ballot used or prepared for the primary election of the Democratic Party and containing on it the names of no persons except Democratic candidates at said election, and in which ballot the cross appears in front of the names of each as the Democratic candidates and in front of no other names.

The CHAIRMAN. Protest will be entered in the record.

Mr. DAVIDSON. Some of these fellows didn't mark that ticket at all.

Mr. MARSHALL. It was the printed workers' ballot at the primary election.

Mr. DAVIDSON. The same kind of ballot was cast in the last election over there. This is a little different ballot, but it was the same in principle, although I think they marked their ballots the last time, but these are not marked at all. They could have taken those ballots and thrown them away. They counted them and the Congress held that it was all right.

The CHAIRMAN. It should be counted on account of the intent of the voter; that they should not be disfranchised on account of any error on the part of the judges of election.

Mr. HELLENTHAL. There was a certificate here why unofficial ballots were used now which they didn't have two years ago. It was absolutely lame on that two years ago. The court held that it was necessary, but Congress held that it was unnecessary. I don't know but what they supplied them at the hearing. I think they supplied some of those certificates at the hearing.

The CHAIRMAN. I think they did; yes.

Mr. DAVIDSON. I can't understand that at all—why they don't all through that westward country, they don't get the ballots.

Mr. GARFIELD. I couldn't understand that two years ago, Charlie, and here you are again, but you told me that a different fellow sent out the ballots that sent out the——

Mr. DAVIDSON (interrupting). No; the clerk of the court sends the ballot and everything——

Mr. GARFIELD (interposing). To the commissioner.

The CHAIRMAN (after count has been computed). The totals for the third division on Patterson for representative is 1,077 and the total for Murray 1,054, showing that Mr. Patterson was duly elected by 23 votes and that the action of the canvassing board was proper in issuing him the certificate of election.

(The board adjourned, subject to call of chairman.)

WEDNESDAY, APRIL 16, 1919.

The board met at 10 a. m., pursuant to adjournment.

The CHAIRMAN. I'll read this telegram.

KETCHIKAN, ALASKA, April 15.

Hon. THOMAS RIGGS, Jr.,

*Governor of Alaska, Juneau:*

Hon. Charles A. Sulzer died on his way from Sulzer to Ketchikan Hospital 10.30 p. m., with obstructions of the bowels.

H. R. RAFFLESON.

The CHAIRMAN (to stenographer). Enter in the record that certified copies of the notices and orders of election for all the missing precincts in the first division have been received.

TAYLOR.

Mr. DAVIDSON. One registration book for general election, which is not signed up by the judges.

Mr. GARFIELD. Not certified.

Mr. DAVIDSON. Not certified.

Mr. GARFIELD. One duplicate election register and tally book; oaths of judges properly executed; registration certificates not signed and certificate of results properly certified by the election board.

The CHAIRMAN (after checking ballots). Twelve ballots counted and one ballot rejected because it has the cross opposite the names of both Connolly and Sulzer.

Mr. GARFIELD. Thirteen cast.

The CHAIRMAN. Thirteen cast altogether. This [tally book] is all properly signed?

Mr. GARFIELD. No; the certificate is not properly signed.

The CHAIRMAN. Certificate of results signed?

Mr. GARFIELD. Yes.

The CHAIRMAN. Certified certificates of results for Nome, Bluff, Bessie Roadhouse—that's No. 2, Nome No. 2—Solomon, St. Michael, Unalakleet, Council, Chignik—

Mr. GARFIELD (interrupting). Chignik.

The CHAIRMAN (continuing). Chignik, Port Clarence, Taylor, Haycock, and a letter of transmittal.

#### NOME NO. 2 (BESSIE ROADHOUSE).

Mr. DAVIDSON. Registration book properly certified.

Mr. GARFIELD. Duplicate register and tally book, with oaths of election board properly executed, certificate of registration, certificate of copy of registration not executed; certificate of results properly executed by the election board.

The CHAIRMAN. How many, 12 ballots?

Mr. GARFIELD. Twelve, total 12 votes.

Mr. DAVIDSON. Did you get the number of votes?

Mr. GARFIELD. Yes; 13. One thrown out and 12 cast.

(Tally of vote not made by election board; tally of votes made by canvassing board.)

The CHAIRMAN. That ballot was rejected altogether because it was voted for two Senators.

Mr. GARFIELD. How many votes have you got there altogether, including that one?

The CHAIRMAN (after counting). Twelve cast.

Mr. DAVIDSON. Then, if we're going to cut that out, we'll have to cut this out.

The CHAIRMAN. One off of Wickersham.

Mr. GARFIELD. What'll we do? Take one vote off?

The CHAIRMAN. Take one vote off those. One vote rejected by the judges of election because both Senators were voted for.

Mr. MARSHALL. Mr. Chairman, it is more or less a perfunctory canvass, I presume, from now on, and I haven't much heart in the situation, but just to protect the record I protest against the throwing out of that one vote. I think that should be clearly counted.

#### SOLOMON.

Mr. DAVIDSON. One registration book, properly certified.

Mr. GARFIELD. One duplicate register and tally book, oaths of election board properly executed; certificate of copy of registration not executed; certificate of results properly executed by the election board.

The CHAIRMAN. Sixteen ballots.

Mr. GARFIELD. Sixteen voted.

(Returns checked and tallied.)

#### TELLER.

Mr. DAVIDSON. Registration book properly certified.

Mr. GARFIELD. Register and tally book, oaths of judges executed; certificate of registration properly executed; certificate of general results signed by the election board.

The CHAIRMAN. Twenty-two votes? Two marred ballots not cast, as shown by the stubs remaining. Twenty-two ballots cast. A new ballot was evidently issued, because there are 22 ballots here and 22 registered.

(Ballots counted, returns checked, and tallied.)

#### NOME NO. 1.

Mr. DAVIDSON. One registration book, not certified.

The CHAIRMAN. Here is a ballot [showing] that has evidently been replaced; three spoiled ballots evidently never been cast.

Mr. GARFIELD. Duplicate register and tally book, with oaths of judges properly executed; certificate of registration properly executed by the judges;

certificate of election results properly signed by the election board; challenge oath of Fred Harrison, signed by the affiant; certificate of election of judges of election when original appointee fails to appear and qualify, substituting R. W. Bowen and E. E. Adams—wait a minute. E. E. Adams and Robert James for M. D. Balsar and Con Kelly.

The CHAIRMAN. Four ballots marred and evidently noted voted; probably replaced with other ballots. One of these ballots is a blank as to the face.

Mr. GARFIELD. Printer forgot to print it.

(Returns check, and tallied, and ballots counted.)

The CHAIRMAN. I think that the proper procedure now would be to have the clerks prepare a full tally, giving the details and when so done, that they notify me so I can call a meeting for further action. Is that acceptable?

Mr. DAVIDSON. That's the only thing we can do. I wonder what the procedure is, whether we should declare.—

The CHAIRMAN (interrupting). We'll have to refer that to the attorney general.

Mr. DAVIDSON (continuing). Because there is just a possibility that if we declare, it might give a chance for a contest, whereas otherwise there will have to be a special election.

The CHAIRMAN. The only chance for a contest is in case Mr. Sulzer is found to have been elected, and I understand Judge Wickersham has some time ago declared that he was going to contest.

Mr. DAVIDSON. He can't contest now, can he, because he can't get service?

The CHAIRMAN. I don't know. I must confess that I'm up in the air about it.

Mr. DAVIDSON. I guess everybody is. It looks like the legislature has got to call a special election.

The CHAIRMAN. Of course, we've got one other candidate. We've got to issue a certificate to the road commissioner. It is a thing that'll have to be deliberated on before we can take any final action. In the meanwhile the clerks can prepare the tally, and I know of no reason for not giving the results out to the press.

Have you any statement, Judge?

Mr. MARSHALL. No; I have not. I haven't informed myself on the question, and I don't know what should be done.

(Adjournment taken, subject to call of chairman.)

THURSDAY, APRIL 17, 1919.

The board met at 11 a. m.

The CHAIRMAN. I consulted the Attorney General. The Attorney General advises me that the proper procedure is to declare the candidate having the most number of votes elected and to issue a certificate, regardless of the fact whether one of them is deceased or not. The certificate is then forwarded and it makes—if there is anything coming to the estate on that account, the money is paid to the estate.

In regard to a possible contest, that is something that has not been decided what can be done. That has not been looked up. Nobody knows what the procedure can be taken under the circumstances.

How does the vote stand?

Mr. DAVIDSON. Sulzer, 4,487; Wickersham, 4,454.

The CHAIRMAN. What was that?

Mr. DAVIDSON. 4,487—

The CHAIRMAN. 4,487 and 44 what?

Mr. DAVIDSON. 54.

The CHAIRMAN. Thirty-three. I think a motion is in order to declare that Charles A. Sulzer received the greatest number of votes at the last election, held on November 5.

Mr. DAVIDSON. Mr. Chairman—of course, I haven't looked it up, but it strikes me that to issue a certificate to a man that has already gone is a funny procedure, but it may be that it's right.

The CHAIRMAN. We didn't issue the certificate in the regular manner—

Mr. DAVIDSON. Oh, that's so. I misunderstood you. I thought we declared he was elected.

The CHAIRMAN. He was elected and the certificate is in the regular form, as follows [reads]:

## UNITED STATES OF AMERICA.

## TERRITORY OF ALASKA, JUNEAU.

*To all to whom these presents shall come, greeting:*

Know ye, that in compliance with an act of Congress, approved May 7, 1906, providing for the election of a Delegate to the House of Representatives from the Territory of Alaska, and an act of Congress, approved August 24, 1912, providing for a legislative assembly in the Territory of Alaska, and combining the election for Delegate with that for members of the legislative assembly, the undersigned, forming a canvassing board to canvass and compile in writing the vote in the election held in the Territory of Alaska, on November 5, 1918, find that Charles A. Sulzer, of Sulzer, Alaska, received the greatest number of votes for Delegate in said election, for the term beginning March 5, 1919, and the election of said Charles A. Sulzer is hereby duly certified.

In testimony whereof, we have hereunto set our hands and affixed our seals at Juneau, the capital of Alaska, this seventeenth day of April, in the year of our Lord, one thousand nine hundred and nineteen.

[SEAL.]

THOMAS RIGGS, Jr.,  
Governor;

[SEAL.]

CHARLES E. DAVIDSON,  
Surveyor General;

[SEAL.]

C. N. GARFIELD,  
Acting Collector of Customs;  
Canvassing Board.

This is exactly the same as the previous verbatim certificate of the previous certificate.

Mr. DAVIDSON. Well, that is what I thought; that that should probably be changed to fit the conditions. I don't know; I'm free to confess that I haven't—it just struck me that in issuing that we should make that showing in there that he is now deceased.

Mr. GARFIELD. I don't think that that affects our finding any.

Mr. DAVIDSON. It don't affect our finding, but here we're issuing a certificate to a man that's dead.

Mr. GARFIELD. Well, we certified that such and such things occur in accordance with the canvass.

Mr. DAVIDSON. Of course, we've got the record that he had the most votes; that I agree with.

Mr. GARFIELD. That fact exists, regardless of whether he is dead or alive.

The CHAIRMAN. And he was elected on November 5, and his election is certified?

Mr. GARFIELD. Yes; and he was elected on November 5.

The CHAIRMAN. He was elected, and that is in accordance with the verbal instructions of the Attorney General?

Mr. DAVIDSON. It just struck me that we were issuing a certificate——

The CHAIRMAN (interposing). To a man who is not——

Mr. DAVIDSON. To a man who is not alive. There is only that point, that the wording of that might be changed.

Mr. GARFIELD. Of course, the record shows, or the minutes show, that a telegram was filed here yesterday, showing that he had passed away, and the record will show that, but that doesn't affect this certificate, I wouldn't think, in any way whatsoever.

The CHAIRMAN. I understand that there has been a telegram received from the secretary to Mr. Sulzer, stating that he made an examination and the custom is, when you file in case of death, to file the certificate with the Clerk of the House, the Clerk of the House of Representatives.

Mr. DAVIDSON. Well, then, they probably looked it up and they should know. I confess I don't know anything about it; it just struck me that it might be a little irregular to do it.

The CHAIRMAN. I think it is perfectly regular.

Mr. DAVIDSON. I don't know; I'm perfectly willing to do anything that is the regular thing, not that I want to hold it up or anything of that kind.

Mr. GARFIELD. Well, Mr. Chairman, I would move you that as a result of the canvass of the election returns of the general election held upon November 5, 1918, we find that Charles A. Sulzer has received a plurality of votes for the

office of Delegate to Congress, and this board do issue a certificate in accordance.

The CHAIRMAN. Declare him elected.

Mr. GARFIELD. Declare him elected and issue a certificate in accordance therewith.

The CHAIRMAN. Declare that he was elected.

Mr. GARFIELD. Well, that's better; declare that he was elected.

The CHAIRMAN. Yes.

Mr. GARFIELD (continuing). And issue a certificate in accordance therewith.

Mr. DAVIDSON. Well, I'll second that motion. I think that covers it—that he was elected.

The CHAIRMAN. Well, the motion has been carried and the board declares that Charles A. Sulzer was elected Delegate to Congress at the last election, held on November 5, 1918.

Did you prepare—Mr. Cramer, did you prepare a certificate of election for Gibney?

Mr. CRAMER. They're right here now.

Mr. GARFIELD. What did we make Gibney's vote in the second?

Mr. DAVIDSON. Gibney, 359. Is that what you got?

Mr. GARFIELD. Yes; Gibney, 359; Plein, 72; Wilson—

Mr. DAVIDSON. Plein, 72; Wilson, 347; Winkler, 333.

The CHAIRMAN. I think a motion is in order regarding Mr. Gibney.

Mr. DAVIDSON. I move, Mr. Chairman, that Gibney, having received the greatest number of votes for road overseer of the second division, be declared elected and issue him a certificate accordingly.

Mr. GARFIELD. I second that motion.

The CHAIRMAN. I think that might be amended to "road commissioner" instead of "road overseer."

Mr. DAVIDSON. Well, "road commissioner."

The CHAIRMAN. The board then declares Mr. Gibney elected. I think that we'd better sign an extra copy of Mr. Sulzer's certificate, because they, for some reason in the administration of his will, they might need that, isn't that true, Judge? It might be stated that the certificate of Sulzer is issued in triplicate to cover any possible contingency.

Mr. DAVIDSON. Of course, at any time a certified copy could be made.

The CHAIRMAN. A certified copy can be given. We have got them all right here together.

(Certificates to Sulzer and Gibney signed by canvassing board.)

The CHAIRMAN. Now, these returns, what has been the custom, General, with these?

Mr. DAVIDSON. The custom has been to make up these returns in typewriting on thin paper, so that it can be filed, and put in the names in full and then just file one set.

The CHAIRMAN. Just file one set.

Mr. DAVIDSON. Yes; you generally have a set here.

The CHAIRMAN. Are they signed or certified by the board?

Mr. DAVIDSON. No; we never have signed them by the board, but you can do it.

The CHAIRMAN. Well, I don't know but that it would be a good scheme to make them up and sign them.

Mr. DAVIDSON. I'm having them made up there. You see this stuff you can't file.

The CHAIRMAN. You make it up by precincts?

Mr. DAVIDSON. Yes; we make it up the same as this in typewriting on thin paper. We're making up about eight copies of it. Let's see, you'll want a copy here, and you'll want a copy, Charlie, and then they'll probably want some certified copies, if they have a contest, and one copy should be attached. The way this is always made up, this is made up here. This record is made up. George's record, and then we attach a copy to that, and that one would be signed and filed in the secretary's office. That's the place where we file that.

The CHAIRMAN. Is that the one that was used in the contest last year?

Mr. DAVIDSON. Certified copy.

The CHAIRMAN. Then you want it in your file?

Mr. DAVIDSON. We keep one in our files.

The CHAIRMAN. And then you want a duplicate?

Mr. DAVIDSON. There should be.

The CHAIRMAN (to the stenographer). How many copies have you made up, George?



STENOGRAPHER. Five copies.

Mr. DAVIDSON. Then you'll have an extra copy of the record. They'll probably want two copies.

The CHAIRMAN. For each of the contestants?

Mr. DAVIDSON. Yes; probably each of the contestants will want a copy, if they contest.

Mr. GARFIELD. Well, do you want to adjourn sine die before that is done, before we sign this up?

The CHAIRMAN. Well, we can; I think we can call, when this is written up, an informal meeting and sign them, and in the meanwhile adjourn sine die.

Mr. GARFIELD. Mr. Chairman, I move you that, in view of the work of the canvassing board being completed, we now adjourn sine die.

Mr. DAVIDSON. I second the motion.

The CHAIRMAN. It is so ordered.

(The board adjourned sine die.)

THOMAS RIGGS, jr., *Governor, Chairman;*  
CHARLES E. DAVIDSON, *Surveyor General;*  
C. N. GARFIELD, *Acting Collector of Customs;*  
*Canvassing Board.*

FRIDAY, APRIL 25, 1919.

The chairman called a subsequent meeting of the canvassing board at 12 noon, for the purpose of considering the following letter:

UNITED STATES DISTRICT COURT,  
*Juneau, Alaska, April 24, 1919.*

Hon. THOMAS RIGGS, Jr.,  
*Governor of Alaska, Juneau.*

DEAR SIR: At the solicitation of the canvassing board of which you are president, through Secretary G. F. Cramer, Mr. Spray, one of my deputies, furnished for the use of said canvassing board the returns received by this office from the election board of Sitka voting precinct, for the general election of November 5, 1918.

These returns consisting of the election register and tally book duplicate belong in the permanent files of this office. I would respectfully ask that you return the election register and I will cause a certified copy of the same to be issued for the benefit of the canvassing board if so requested.

Respectfully,

J. W. BELL, *Clerk.*

The returns from Sitka were opened and the duplicate election register and the registration book were returned to the clerk of the court, with the following letter:

JUNEAU, April 25, 1919.

Mr. J. W. BELL,  
*Clerk United States District Court, Juneau.*

SIR: As requested in your letter of April 24, I am returning herewith duplicate election register and tally book and original registration book for general election for the Sitka precinct, which books were forwarded to the canvassing board from your office.

As the returns from Sitka did not include these two books, please make a certified copy of them and forward them to the canvassing board for filing with the Sitka returns.

Very truly yours,

THOMAS RIGGS, Jr.  
*Chairman Canvassing Board.*

I hereby certify that the proceedings of the canvassing board, which canvassed the returns of the election of November 5, 1918, with the remarks of persons interested therein, as contained in the foregoing transcript, were reported in shorthand and later transcribed by me; and that the transcript is true and correct to the best of my knowledge and belief.

G. W. FOLTA, *Stenographer.*

JUNEAU, ALASKA, April 25, 1919.

Official returns of the election of Delegate from Alaska, members of the fourth Territorial Legislature, and road commissioner, held Nov. 5, 1918.

## FIRST DIVISION.

Precinct.	Delegate.			Senate.					Legislature.																
	Connelly, Francis.	Butler, Charles A.	Wickersham, James.	Britt, William.	Johanson, Crist.	Russell, Ed. C.	Casey, W. W.	Connors, James J.	Davies, John H.	Holstad, I. M.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Buranof (Warm Springs).....	.....	10	4	4	.....	10	6	8	5	1	5	5	9	4	8	1	10	2	14	.....	.....	.....	.....	.....	.....
Beaver Falls.....	.....	7	6	10	.....	1	1	5	12	.....	5	5	7	10	7	1	7	3	.....	.....	.....	.....	.....	.....	.....
Charcoal Point.....	3	45	42	40	14	26	33	29	56	17	37	37	26	31	28	10	31	26	.....	.....	.....	.....	.....	.....	.....
Chichagof.....	.....	36	10	29	4	11	26	21	14	2	19	4	33	20	15	4	35	6	.....	.....	.....	.....	.....	.....	.....
Chikof.....	.....	5	4	4	.....	5	7	6	3	.....	4	2	6	6	3	.....	6	2	.....	.....	.....	.....	.....	.....	.....
Craig.....	.....	50	47	55	5	29	59	53	29	17	37	18	56	45	25	13	44	22	.....	.....	.....	.....	.....	.....	.....
Dakota.....	.....	1	4	1	.....	2	1	3	3	.....	2	1	1	1	2	.....	1	3	.....	.....	.....	.....	.....	.....	.....
Douglas, No. 1.....	9	45	52	41	16	43	49	41	45	13	42	40	46	74	47	11	35	56	.....	.....	.....	.....	.....	.....	.....
Douglas, No. 2.....	5	19	21	16	8	16	18	15	13	6	13	14	15	24	18	3	9	23	.....	.....	.....	.....	.....	.....	.....
Gold and Salmon Creek.....	.....	4	12	4	1	10	3	6	6	2	9	6	6	7	8	1	9	6	.....	.....	.....	.....	.....	.....	.....
Hadley.....	1	4	6	7	1	2	7	8	3	1	1	2	7	6	2	1	5	3	.....	.....	.....	.....	.....	.....	.....
Haines.....	3	40	40	32	8	45	36	37	29	8	41	30	47	40	36	7	38	34	.....	.....	.....	.....	.....	.....	.....
Hoonah.....	.....	6	10	9	2	4	7	3	10	3	5	7	11	5	8	3	7	3	.....	.....	.....	.....	.....	.....	.....
Hyder.....	.....	5	5	6	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Jualpa.....	1	.....	2	6	.....	2	5	5	4	.....	2	1	6	5	2	.....	6	3	.....	.....	.....	.....	.....	.....	.....
Juneau, No. 1.....	3	266	196	261	12	170	242	229	185	12	100	106	260	230	195	16	223	149	.....	.....	.....	.....	.....	.....	.....
Juneau, No. 2.....	3	120	132	107	4	135	112	117	96	16	106	111	127	106	127	13	106	90	.....	.....	.....	.....	.....	.....	.....
Juneau, No. 3.....	1	45	51	46	3	41	51	46	32	11	37	29	53	42	40	14	59	28	.....	.....	.....	.....	.....	.....	.....
Kake.....	.....	5	1	2	.....	3	6	3	1	.....	3	1	5	3	1	.....	5	1	.....	.....	.....	.....	.....	.....	.....
Kasaan.....	.....	6	9	6	.....	2	5	7	6	4	6	5	6	4	5	2	3	4	.....	.....	.....	.....	.....	.....	.....
Ketchikan.....	5	184	277	163	30	211	135	107	339	33	200	138	147	110	212	21	114	196	.....	.....	.....	.....	.....	.....	.....
King.....	.....	13	12	12	5	8	14	9	15	6	4	1	15	7	6	6	5	9	.....	.....	.....	.....	.....	.....	.....
Mendenhall.....	.....	6	5	4	.....	7	4	2	5	.....	4	6	2	6	6	.....	4	6	.....	.....	.....	.....	.....	.....	.....
Nome.....	.....	3	19	16	4	.....	17	17	11	3	19	12	14	18	14	3	15	14	.....	.....	.....	.....	.....	.....	.....
Petersburg.....	4	40	73	69	13	32	34	36	94	25	78	31	47	27	40	47	26	30	.....	.....	.....	.....	.....	.....	.....
Port Walter.....	.....	4	2	4	1	1	6	5	2	.....	3	1	4	2	3	.....	3	3	.....	.....	.....	.....	.....	.....	.....
Snow Bay.....	4	.....	9	4	8	1	2	3	5	12	6	2	3	4	3	14	.....	1	.....	.....	.....	.....	.....	.....	.....

Sheep Creek.....	89	24	79	3	25	75	67	32	3	25	33	81	84	28	1	96	10	.....	119
Sitka.....	74	39	65	7	36	66	58	39	11	33	23	62	56	27	7	57	28	.....	118
Skagway.....	93	46	104	3	30	75	70	44	2	42	26	92	110	42	3	76	33	1	143
Sulzer.....	40	3	37	3	.....	33	33	3	2	4	1	31	34	2	1	35	2	.....	43
Tenakee.....	19	10	17	1	9	18	17	11	1	10	6	14	20	7	2	20	5	.....	29
Treadwell.....	27	32	21	5	31	28	26	16	2	22	21	35	47	20	3	13	43	.....	59
Windham Bay.....	4	.....	3	1	.....	2	4	2	.....	1	.....	4	2	.....	.....	3	1	.....	4
Wrangell.....	43	115	50	9	82	49	38	76	18	117	43	53	46	74	17	45	63	.....	164
Token.....	11	2	5	.....	8	3	4	6	.....	11	5	2	1	7	.....	7	5	.....	13
Total.....	51	1,391	1,326	1,334	1,038	1,235	1,135	1,204	242	1,122	852	1,333	1,267	1,066	224	1,138	910	13	2,821

<sup>1</sup> Estimated from vote cast for Delegate.

SECOND DIVISION.

WICKERSHAM VS. SULZER, DECEASED, AND GRIGSBY.

Precinct.	Delegate.			Legislature.								Road commissioner.				Scattering.	Total number votes cast.		
				Senate.		House.													
				Coombs, Nathan H.	Frawley, James.	Allan, A. A.	Bogan, James J.	Daly, James P.	Downing, R. J.	Eddy, William M.	McIntosh, Alex.							Milot, Charles.	O'Connor, J. P.
Bethel.....	.....	3	28	11	14	17	7	10	8	13	17	13	2	8	11	10	4	1	31
Bluff.....	1	6	5	4	8	6	6	11	1	5	1	3	4	8	3	.....	5	3	13
Candle.....	1	19	39	24	36	32	26	36	22	18	21	10	7	39	38	.....	13	4	63
Chinik.....	.....	3	8	7	4	11	1	9	.....	9	3	10	2	.....	.....	.....	9	.....	11
Council.....	2	9	33	33	10	25	23	25	14	12	17	15	6	.....	30	3	9	.....	44
Deering.....	.....	1	14	3	11	6	5	10	3	.....	12	1	2	6	15	.....	.....	.....	16
Haycock.....	1	44	18	23	39	28	40	32	19	20	6	11	9	50	6	1	49	6	63
Kiana.....	.....	21	4	19	5	20	19	5	3	18	20	1	4	6	4	2	19	.....	28
Kotzebue.....	1	6	4	2	8	4	3	7	3	2	7	2	.....	5	7	2	1	.....	11
Nome No. 1.....	16	81	219	147	157	190	161	169	111	143	77	106	69	84	145	12	142	10	326
Nome No. 2.....	1	4	6	2	9	3	8	8	5	4	2	3	1	4	6	1	3	.....	12
Port Clarence.....	3	9	10	3	19	7	16	18	12	6	5	3	4	11	15	.....	7	.....	22
St. Michael.....	1	37	16	4	37	23	21	41	26	6	8	6	13	30	31	6	12	.....	54
Unalakleet.....	2	12	44	18	39	28	13	23	19	24	27	16	20	22	9	11	27	8	59
Solomon.....	1	6	9	10	6	11	9	12	6	4	3	8	3	5	8	1	6	.....	16
Taylor Creek.....	1	6	5	5	7	5	7	10	9	2	2	1	4	7	8	.....	4	.....	13
Utica.....	1	2	12	6	8	7	3	9	3	10	10	3	1	1	14	.....	1	.....	15
Wade Hampton No. 1 (Marshall).....	.....	21	12	5	24	16	17	26	18	6	9	6	.....	22	1	11	20	.....	33
Wade Hampton No. 2 (Willow Creek).....	2	13	17	8	17	16	11	23	10	10	12	5	1	15	8	7	16	1	32
Total.....	34	303	503	332	458	455	396	484	292	312	259	223	152	354	359	72	347	33	980

THIRD DIVISION.

Precinct.	Delegate.		Senate.					Legislature.										Road commissioner.				Total number votes cast.		
	Connolly, Francis.	Sulzer, Chas. A.	Wickersham, James.	Gertman, F. F.	Price, Thomas C.	Ward, James Willbur.	Wilkinson, James A.	Green, J. Lindley.	Henry, W. J.	Murray, Joseph H.	Neklason, Nicolaus H.	House.				Galen, J. L.	Olson, Axel.	Wilson, James.	Lee, Wm. E.	Scattering.				
												Noon, John.	Patterson, James A.	Ray, Elbert E.	Reed, Joseph H.						Slater, Henry A.		Small, Robert D.	Frame, John W.
Afognak.....	3	12	37	8	14	23	4	27	9	17	15	23	14	20	22	23	12	9	17	17	10	6	.....	52
Anchorage No. 1.....	13	131	123	19	136	48	58	65	30	66	21	85	85	79	61	89	120	110	49	23	111	53	.....	274
Anchorage No. 2.....	23	117	261	39	120	86	133	109	53	137	32	84	84	79	121	163	145	204	89	32	126	118	.....	407
Bird Creek.....	.....	8	12	5	7	3	4	2	5	3	1	3	3	5	4	3	11	12	4	1	9	2	.....	21
Bonanza (McCarthy district).....	2	13	5	2	12	5	1	4	6	5	2	8	8	10	6	8	11	2	6	2	10	1	.....	20
Cache Creek.....	1	23	2	2	11	.....	14	2	3	4	1	16	13	14	1	6	12	8	.....	.....	9	18	.....	27
Chickaloon.....	2	24	14	2	12	4	19	7	2	21	2	17	15	6	12	6	19	30	7	2	21	9	.....	41
Chignik.....	.....	11	3	.....	11	3	.....	3	.....	3	.....	11	11	11	3	3	11	.....	3	.....	11	.....	.....	14
Chisana.....	.....	6	2	1	3	2	.....	4	1	8	1	1	.....	.....	3	4	1	.....	7	.....	.....	.....	.....	8
Chitina.....	.....	39	26	1	25	22	4	9	3	38	1	27	21	27	17	44	11	12	47	3	11	2	.....	66
Chogiung.....	.....	16	7	2	13	5	.....	8	1	6	1	13	11	11	7	5	9	.....	5	.....	14	.....	.....	23
Copper Center.....	.....	10	.....	.....	6	2	.....	1	.....	5	.....	6	4	3	1	5	5	.....	5	.....	5	.....	.....	10
Cordova.....	6	184	214	18	103	189	48	117	19	161	16	98	78	182	113	329	67	74	264	14	96	6	.....	415
Ellamar.....	.....	14	23	2	12	9	11	4	2	16	2	14	19	12	9	15	8	14	11	3	17	.....	.....	38
Esk Creek.....	2	27	16	9	15	6	11	8	10	16	9	21	10	13	8	9	12	16	11	5	17	7	.....	47
Eyck.....	2	59	38	7	39	37	11	24	8	28	5	38	26	67	15	78	20	15	52	6	37	1	.....	104
Fidalgo Bay.....	1	8	5	3	8	2	.....	4	2	7	.....	6	7	6	3	5	4	5	3	1	2	7	.....	15
Girdwood.....	2	20	18	5	16	5	11	8	4	9	3	24	14	15	8	7	20	17	5	2	23	4	.....	42
Granite.....	3	8	4	3	3	3	5	1	4	8	.....	3	11	5	10	11	.....	4	4	3	7	1	.....	15
Hope.....	.....	7	8	.....	7	6	1	4	.....	5	.....	8	4	6	6	5	4	5	4	1	8	.....	.....	15
Illamna.....	.....	14	.....	.....	14	.....	.....	.....	.....	.....	.....	14	13	9	.....	.....	10	10	.....	.....	14	.....	.....	14
Jumbo.....	2	12	9	1	10	9	2	4	5	12	4	12	7	6	5	12	7	5	8	4	8	3	.....	24
Katalla.....	2	30	11	4	15	14	4	11	3	13	2	18	12	15	8	26	16	10	14	2	22	.....	.....	43

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<sup>1</sup> Estimated from vote cast for Delegate.



THIRD DIVISION—Continued.

WICKERSHAM VS. SULZER, DECEASED, AND GRIGSBY.

Precinct.	Delegate.			Legislature.										Road commissioner.				Total number votes cast.					
	Connolly, Francis.	Sulzer, Chas. A.	Wickersham, James.	Senate.				House.						Road commissioner.									
				German, F. F.	Price, Thomas C.	Ward, James Willbur.	Wilkinson, James A.	Green, J. Lindley.	Henry, W. J.	Murray, Joseph H.	Neklasen, Nicolaus H.	Noon, John.	Patterson, James A.						Ray, Elbert F.	Reed, Joseph H.	Slater, Henry A.	Small, Robert D.	Frame, John W.
Kennecott.....	.....	54	19	5	41	20	5	15	3	27	4	46	35	36	14	36	27	2	38	2	24	1	73
Kenai.....	2	7	11	3	7	7	4	6	3	5	13	8	5	9	9	6	7	3	2	2	13	1	21
Knik.....	2	9	7	3	7	4	1	2	4	6	1	11	9	5	3	1	6	2	3	4	11	1	18
Kodiak.....	1	33	14	1	30	9	4	9	.....	12	3	33	28	31	9	9	10	1	6	1	32	3	48
Kuskulana.....	.....	11	1	.....	3	6	.....	1	.....	5	.....	3	7	.....	2	11	4	.....	4	.....	7	.....	12
Kuskulana No. 2.....	1	4	2	.....	1	1	.....	2	1	6	1	5	2	.....	.....	5	.....	6	2	2	3	.....	7
Latouche.....	14	63	29	15	50	15	20	16	19	40	11	49	49	35	23	35	32	34	27	12	54	6	106
McCarthy.....	4	33	72	3	19	46	33	25	5	85	5	51	37	29	28	59	14	34	55	1	40	3	112
McDougall.....	.....	4	2	.....	5	.....	1	1	.....	2	.....	3	4	4	2	.....	3	4	2	.....	4	.....	6
Matanuska.....	1	31	16	5	9	10	9	9	5	11	4	20	17	19	10	14	18	12	20	.....	25	1	49
Moose Creek.....	.....	5	8	1	3	4	3	3	1	4	1	2	1	.....	5	4	2	10	5	.....	3	3	13
Moose Pass.....	.....	3	1	.....	3	.....	.....	4	1	1	.....	4	1	2	2	.....	1	.....	.....	.....	4	.....	4
Naknek.....	.....	10	.....	.....	10	.....	.....	.....	.....	1	.....	10	10	10	.....	.....	10	.....	.....	.....	10	.....	10
Nimlichik.....	.....	5	4	.....	6	2	1	4	4	1	.....	6	5	4	2	3	2	4	1	1	7	.....	10
Nizina.....	.....	4	1	.....	5	.....	.....	.....	.....	3	.....	4	4	2	1	2	2	3	2	.....	3	.....	5
Ouzinkie.....	1	8	11	1	9	7	2	8	1	5	2	9	3	11	12	4	8	18	8	.....	11	1	20
Palmer.....	2	6	4	2	2	4	4	1	4	3	3	5	5	1	3	3	3	10	3	.....	4	3	13
Roosevelt.....	1	6	6	3	6	4	.....	5	2	4	2	10	2	6	1	3	7	3	1	1	9	1	13
Sanak.....	.....	3	6	.....	3	6	.....	6	.....	6	.....	3	3	3	6	6	3	.....	.....	.....	3	.....	9
Seldovia.....	8	11	105	9	30	39	24	37	15	39	11	42	13	34	36	60	21	49	33	9	38	18	124
Seward.....	3	114	85	5	98	40	23	113	11	43	5	162	62	76	51	67	63	24	46	5	127	7	205
Sourdough.....	.....	7	5	.....	7	2	1	4	1	6	.....	9	7	8	3	5	5	1	8	.....	4	.....	13
Strelina.....	.....	12	3	2	5	6	2	3	1	6	.....	6	2	7	4	10	3	4	3	1	11	.....	16
Susitna.....	.....	2	4	.....	3	2	.....	3	.....	4	.....	3	3	2	4	3	1	1	2	.....	3	1	6
Talkeetna.....	2	23	22	5	17	20	.....	17	3	13	.....	17	8	15	14	23	15	25	25	1	17	1	47
Unalaska.....	1	54	17	4	48	16	.....	19	1	17	1	50	50	49	17	16	51	.....	16	1	51	.....	72

Unga.....	3	23	31	3	22	23	4	25	7	22	7	24	19	19	19	23	21	19	.....	20	6	22	2	.....	36
Valdez Bay.....	1	24	11	1	21	20	3	4	1	12	2	21	20	23	23	12	13	13	6	13	2	16	2	.....	261
Valdes.....	8	180	66	12	145	178	42	24	10	71	17	149	178	123	123	110	77	95	33	76	8	151	9	.....	42
Wasilla.....	4	31	5	7	18	12	3	5	4	5	9	20	12	14	14	8	12	27	9	6	5	23	4	.....	6
Willow Creek.....	.....	3	3	.....	1	4	.....	1	.....	2	1	4	4	2	2	3	2	4	1	1	.....	5	.....	.....	.....
Total.....	123	1,575	1,409	219	1,256	1,077	537	798	291	1,054	207	1,415	1,077	1,176	860	1,364	1,008	864	1,043	187	1,323	305	8	3,170	

1 Estimated from vote cast for Delegate.

FOURTH DIVISION.

Precinct.	Delegate.			Legislature.								Road com- missioner.		Scattering.	Total number votes cast.			
	Senate.			House.														
				Conolly, Francis.	Sulzer, Chas. A.	Wickersham, James.	Hess, Luther C.	Pratt, L. K.	Callahan, Daniel.	Colbert, Louis Dale.	Collins, Earnest B.	Dunn, John W.	Good, Wm. F.			Hilleary, Robt. N.	Kilgore, A. M.	Laughlin, E. L.
Aniak.....	.....	19	1	16	4	18	1	2	11	.....	.....	14	.....	8	11	16	4	16
Bettles.....	.....	4	13	11	6	6	2	12	8	.....	.....	4	.....	15	10	12	1	12
Brooks.....	10	64	58	80	45	43	96	53	34	17	19	45	28	61	57	63	49	135
Chicken.....	.....	7	8	8	7	2	1	9	5	.....	.....	5	2	3	2	4	9	4
Circle.....	.....	14	2	13	3	2	2	3	12	.....	.....	10	2	15	13	4	12	4
Coldfoot.....	1	7	5	11	2	9	.....	4	8	.....	.....	7	1	9	5	4	9	4
Deadwood.....	2	4	7	5	5	2	2	6	5	.....	.....	5	1	5	6	4	9	4
Discovery.....	3	7	18	13	11	4	2	15	17	.....	.....	17	1	17	16	11	15	4
Dome.....	.....	19	10	12	16	10	11	16	8	2	2	10	5	16	19	11	17	11
Eagle.....	5	17	12	20	9	9	4	10	17	5	9	15	11	15	13	14	17	14
Ester.....	5	14	10	16	13	8	12	11	12	7	7	13	5	17	16	11	17	11
Eureka.....	2	1	16	11	7	5	2	8	7	3	4	6	2	11	12	8	8	8
Fairbanks.....	15	295	340	337	271	206	240	346	214	36	44	191	113	293	337	240	297	655
Fairbanks Creek.....	.....	8	15	15	7	9	12	13	11	1	.....	6	2	5	15	5	16	5
Flat.....	5	54	38	64	26	28	7	32	62	14	17	60	1	53	51	49	25	23
Fort Gibson.....	1	19	19	16	14	12	1	14	17	7	5	13	2	21	13	19	8	97
Fort Yukon.....	.....	13	5	8	8	2	1	5	11	1	1	11	2	13	10	12	4	41
Franklin.....	.....	6	3	7	2	.....	1	8	7	.....	.....	8	.....	8	.....	1	7	18
Georgetown.....	.....	4	3	6	1	2	2	5	6	2	1	4	3	2	1	.....	7	9
Gilmore.....	2	19	4	19	5	9	4	6	10	6	5	12	1	9	15	18	7	7
Goldstream.....	3	18	25	17	19	16	17	32	8	8	7	9	12	14	17	19	19	25
Græhl.....	6	45	69	56	59	35	32	69	41	17	17	32	19	51	64	62	62	120
Greenstone.....	.....	3	9	4	8	4	.....	5	11	.....	2	4	.....	2	1	7	7	12
Hot Springs.....	3	13	12	13	12	8	1	11	9	6	5	10	3	17	10	11	11	29
Iditarod.....	3	10	28	15	18	8	6	16	13	3	8	12	1	19	14	22	22	36
Kan'lshna.....	.....	4	1	4	1	1	.....	.....	5	.....	.....	4	.....	5	6	1	1	5
Little Eldorado.....	7	9	6	22	.....	8	5	7	18	7	8	12	2	18	8	16	16	22
Long.....	21	31	31	21	27	8	8	21	48	4	3	21	4	17	24	34	34	53

[illegible]

	Sulzer.	Wicker-sham.	Connolly.
First division.....	1,391	1,326	51
Second division.....	303	503	34
Third division.....	1,575	1,409	123
Fourth division.....	1,218	1,216	121
Total.....	4,487	4,454	329

UNITED STATES OF AMERICA, Territory of Alaska, 88:

We, the undersigned members of the Alaska canvassing board, being all of the members of said board, do hereby certify that the above and within tabulation of the returns of the general election, held on the 5th day of November, A. D. 1918, is a full and correct tabulation of said returns as they appear on the original tally sheets kept at the various meetings of said canvassing board, one of which said tally sheets is now on file in the office of the secretary of Alaska, of which the within is a copy.

In testimony whereof, we have hereunto set our hands, this 23d day of April, A. D. 1919.

THOMAS RIGGS, JR., Governor of Alaska and Chairman of said Canvassing Board.

CHARLES E. DAVIDSON, Surveyor General of Alaska.

**C. N. GARFIELD, Acting Collector of Customs.**





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